

1ST PEOPLES' SUMMIT REPORT

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We believe the People's Agenda that ensued from the Peoples' Summit will be the foundation for South Asia's effort to forge ahead to a better tomorrow.

FOREWORD

FROM MRS. JEZIMA ISMAIL, CHAIRPERSON, SOUTH ASIA PARTNERSHIP INTERNATIONAL

The South Asian regime is an unique entity - contiguous to a larger land mass yet identified by a mosaic of rich traditions, cultural and religious patterns. Within this diversity is a commonality of urgent needs and desires. A blend of idealism and pragmatism is diffused in the region - and it is just such a blend, I believe, SAP I represents. It is the embodiment of a vision and at the same time a forging of practical issues and of implementing organisations. A South based, South led NGO it has the support of a widespread international NGO Support and Advocacy Network in Bangladesh, India, Nepal, Pakistan, Sri Lanka and Canada. SAP I, in effect, is a practical effort to embody the vision of a cohesive federation of self-reliant, national units, rich in ethnic and cultural diversity.

The People Summit 2000 was part of this vision as it brought together a kaleidoscope of individuals and organisations - NGO's, Trade Unions, women's groups, community leaders, students and Civil Society Movements. It provided a platform to identify issues, formulate solutions to problems and be a common forum for a comprehensive effort. The first step was to prioritize major issues and these formed the base of the discussions of the Commissions and the ensuing recommendations.

We believe that this Summit will bring about:-

- The revitalization of co-operation and collaboration with governments, national and international organisations.
- The strengthening of the NGO movement to cope with future challenges to effect meaningful changes in the lives of ordinary people.
- The anchoring of the belief that civil society in partnership with Government and other organisations has the capacity to influence, persuade, lobby as well as create effective change.
- An effective movement towards the formation of a strong South Asian identity.

What SAP-I, in essence, envisages is an era of effective, co-ordinated and continuous co-operation among the peoples of South Asia, which would be of value not only regionally but also globally. The process of translating this ideal to reality was the foremost objective of the South Asian People Summit in Colombo.

1.0 INTRODUCTION

Dr. W. James Arputharaj, Executive Director, South Asia Partnership International

"Where there is no vision, the people perish."

There is a tide in the affairs of nations and regions, but when governments seem reluctant to take it at the flood, the people may have to seize the moment and reassert their vision for the future. The South Asian People's Summit 2000 at Colombo embodied the determination of its organizers that though the regimes in the region were dilly-dallying over holding the SAARC summit, the people were ready to step into the breach.

However well-intended, the plans and projects of the powers-that-be may not match the needs and priorities of civil society and it is up to the representatives of various sections, associations and professional groups and NGOs to alert the authorities that a change in focus is urgent.

Various thematic commissions deliberated a range of focal issues from child rights to facets of local governance during the Summit from December 8 to 10 and formulated recommendations and a People's Agenda.

Children's Summit

Following this, a decision was taken to hold the SAARC Children's Summit in August 2001 at Colombo. At the time of writing, the Child Rights Group of Sri Lanka is planning to organize this meet. Kanthi Perera, the Project Coordinator, said that on visits to India and Pakistan, it had been observed that there exist children's groups which are empowered and proactive. Sri Lanka and other countries in the region could learn from one another's experiences. The project is still in a nascent stage. Decisions have yet to be made on how the child representatives will be selected.

"Children's participation should be elevated from present tokenistic levels to active, equal and informed participation in all decisions concerning them," stated the Commission on the Rights of the Child when it met in December 2000.

This was in keeping with what one of the keynote speakers at the inaugural session of the Summit, Nandana Reddy of Concern for Working Children (CWC), had stressed: "We should have a SAARC of children - they should be

an integral and recognized part of the structure." Speaking on the perspectives of her organization, CWC, she added, "Our focus is creating political space for children... the underlying principle is the best interests of the child. Now how do you determine the best interests of the child if the child is not part of the consultative process?"

While questions may be asked as to how representative the children attending the summit will be, how informed and articulate they may be and whether such politicization is really in the best interests of the child, the forthcoming summit may convince the doubters, of children's rights and capability, to be part of the consultative process - at least in matters that concern them. And this would certainly equip them - or at least a section of them -- with a measure of control over their own life and destiny.

Plenary on ICC

The closing day of the summit saw for the first time, media attention being directed upon the imperative need to ratify the International Criminal Court. The court is visualised as a permanent body empowered to try those individuals accused of the most heinous crimes that offend human conscience: aggression, genocide, crimes against humanity, and war crimes.

In a plenary session on the issue, governments in the region were urged to sign and ratify the ICC statute. The Commission on Human Rights specifically recommended that all south Asian governments should sign and ratify the conventions setting up the ICC and additional protocol of the Geneva Convention.

"The globalisation of justice, led largely by the historic ICC process, is an amazing development in international affairs, and an antidote to so many other dark and dangerous global forces. The NGO Coalition for an ICC (CICC) is aware that tremendous efforts must still be made and that the dangerous forces - those emerging from chaos as well as from ignorance - will threaten to undermine this great initiative," said CICC Convenor William R. Pace in the August 1999 issue of *The ICC Monitor*, one of the papers circulated at the plenary session of the People's Summit.

In the final vote on the ICC statute at the Rome Diplomatic Conference, the South Asian region voted in this way: Sri Lanka - no; India - abstained; Nepal - abstained; Bangladesh has subsequently promised to sign and ratify the statute.

The need for South Asian countries to rethink their negative or non-committal stance on the international court is underscored by crucial issues such as that of children in combat. Special Representative of the Secretary General for Children and Armed Conflict Olara Otunnu in an address during the CICC's global ratification campaign, highlighted the issue of child soldiers, an ugly feature of the civil war in Sri Lanka. "The statute makes it clear to those who recruit children below the age of 15, that this has become a crime of war... if we're able to implement that, it would be a revolution."

He said the exploitation of children as instruments of war, the recruitment, the kidnapping of children and their being pressed to serve as child soldiers... "is a rampant practice now across the globe. Today we estimate something close to 300,000 young persons below the age of 18 are being used as child soldiers in different parts of the globe."

VULNERABILITY CORRIDORS

Recent thinking on the interlinked social issues that bedevil the South Asian region, harps on the vulnerability studies which have aided social activists to chart poverty-vulnerability zones or a trace a specific vulnerability corridor. When fault lines involving street children or beach boys or trafficking lie outside the capital or big city, it makes little sense for all the NGOs concerned to concentrate their resources in Colombo or its equivalent. Agencies should fan out across the affected area in order to function pre-emptively at the roots of the problem.

NUCLEAR-FREE ZONE

The overall development of the region is not possible without peace and nuclear disarmament. Heated arguments for a nuclear-free zone were raised by several of the

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speakers, among them former Chief of Naval Staff, India, Admiral L. Ramdas. Mr. Karamat Ali of Pakistan shredded the doctrines of national security used by governments in the region to justify the continued nuclearisation of the region. Journalist and author of *South Asia On A Short Fuse*, Praful Bidwai, hit out at the alarming failure of India and Pakistan to perceive that a nuclear bomb is not just a bigger weapon but a qualitatively different weapon of mass destruction that would inevitably boomerang on the user as well.

"One of the lighter features of the Summit was a student debate on whether South Asia needs a nuclear bomb. One of the young speakers highlighted the fact that the future decision-makers of the country are "an uninformed lot. We know about the issue but not about the real magnitude of the problem. Student politics is banned in India and student activism is frowned on. So we are not contacted by NGOs or given the information we need to counter arguments based on jingoistic nationalism."

In the light of the urgency of working for peace, the Commission on Peace and Regional Cooperation pressed for a South Asian Conference on a Nuclear Weapons Free Zone sometime in 2001. Relaxation of visa restrictions and the free exchange of goods, services and people in the regions was another recommendation. The South Asian people's group should work towards obtaining observer status with the official SAARC.

Local and Regional Governance was the area covered by another commission, which advocated direct elections for all tiers of local government, the restoration of joint electorates to ensure equal rights of representation and enfranchisement to religious and ethnic minorities, decentralization of powers from central to state and provincial governments and clear-cut demarcation of powers.

Key among the recommendations of the Commission on Human Rights is that the governments should in association with the people formulate a Convention on Refugees in the South Asian region, since none of the governments has signed the 1951 Refugee Conventions.

The Commission on Human Development stressed that people must act as pressure groups to address basic human development issues like education and health. Political parties must be pressurized to give space for the participation of women in politics.

The exclusion of women from decision-making and from the benefits of economic policies was an aspect underlined by the Commission on Empowerment of Women. Legislation should be enacted on violence against women for both preventive and punitive action. Law-enforcement should be gender-sensitive and supportive structures are essential in civil society. Another problem in the South Asian region is that women and children are often the prime victims of all forms of religious fundamentalism. The media can help change the social climate by portraying positive images of women.

Similarly, SAARC member states must develop and implement a common charter of code of ethics to address the problem of portrayal of violence against children in the media. The reporting process must be revamped, with the government, civil society and children synchronizing their reports. Civil society must facilitate a South Asian Children's Commission on Rights of the Child with consultative status within the SAARC.

The recommendations of the various thematic commissions which deliberated during the People's Summit and the terms of the People's Agenda, outline an ambitious plan of action.

Time and effective implementation alone will tell whether this will remain in the realm of pious hope and platitude or whether it will comprise a set of directive principles to guide development in the South Asian region.

SAP International wish to place on record the co-operation extended by the participants, resource people and the donors to realize the dream of South Asian People to People Dialogue come true.

2.0 SOUTH ASIAN PEOPLE SUMMIT 2000

**We the People of South Asia have a collective responsibility to attempt to solve the problems that face humanity.
The Colombo Appeal to strengthen South Asia Cooperation Peoples Agenda.**

The People Summit 2000 was conceived as a South Asian Conference held at a crucial time in order to find solutions to problems, both common and regional. South Asia, a continent with an ancient civilisation and a rich cultural heritage, is today confronted with challenges and problems. Complex tasks lie ahead. It is in this context that SAP I called for a Summit to identify major issues and concerns of the South Asian community and to evolve possible solutions.

The main objectives of the People Summit are the designing of a campaign to alleviate poverty, prevent violation of human rights, establish good governance and promote human development within the region.

The proposed People's Agenda, formulated at the Summit, will be submitted to the governmental meetings that will follow. It is in essence, a forging of new collaborations and the creation of a new South Asian partnership with governments, civil societies and international organisations.

Participants at the Summit were from NGO's, CBOs, Trade Unions, Students, Women's Movements and Civil Society Organisations. The fundamental premise is bringing together people in a concerted effort – an effort of the people, for the people and implemented by representatives of the people.

In order to effectively implement priority concerns a process was adopted to prioritize major issues confronting the region. These were identified as:

- Peace and Regional Co-operation
- Governance Local & Regional
- Human Rights and Human Development
- Empowerment of Women
- Convention on the Rights of the Child.

These issues were the base of the various thematic commissions that constituted the working sessions of the People Summit. The discussion and recommendations that followed provided a platform for the formulation of the Peoples Agenda for the region.

3.0 | MESSAGES

**From Her Excellency Chandrika Bandaranaike Kumaratunga
President of the Democratic Socialist Republic of Sri Lanka**

It is with great pleasure that I send this Message on the occasion of a highly significant event - The People Summit 2000, organised by South Asia Partnership International. The South Asian region is an area close to our hearts : it is our homeland – and a region of rich resources, both human and material. Our homelands have been the repository of the world's oldest religions and richest civilizations. We represent nations with colourful histories and ancient cultures. We share a common identity – and today, a plethora of common problems such as the feminization of poverty, the vulnerability of the poor, frequent deprivation of human rights and many other vital issues. Part of our heritage is this diversity within an unity. This complex design has long enriched the social fabric and, at times, created tragic fissures within it.

I understand that the People Summit is conceived as a campaign to eradicate or at least mitigate the inequalities that are widespread in the region. This Summit may well spearhead a new era – one that strives to place South Asia in its rightful place within the contemporary world. As unique techniques and information transform the old order into a new our region's development has too long been impeded by disparities and frustrations of the old order. It is time to review the situation, to set right what has gone wrong and invent new mechanisms to forge into the future.

It is indeed commendable that SAP I has taken the initiative to bring together at a Consultation of this magnitude the people of the region – the leaders and opinion makers from issues based networks, NGOs, students, Trade Unions, Civil Society Organisations and Women's Organisations.

This broad based participation and identification of the core issues that beset the area would undoubtedly serve to setup a platform for effective action in the years to come.

I take this opportunity to wish People Summit 2000 every success.

**FROM NIHAL RODRIGO
SECRETARY GENERAL
SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION SECRETARIAT**

It is particularly significant that the South Asia Partnership – International (SAP – I) is being convened on 8th December this year which is the Fifteenth Anniversary of the Signing of the Charter of the South Asian Association for Regional Cooperation (SAARC). By the same token, I regret my inability to accept the kind invitation of the Partnership to be present at the Inaugural Session of the South Asian People Summit as I need to be present in Kathmandu where the Secretariat is organizing its own Anniversary programme.

Considerable importance is accorded by SAARC to the encouragement of closer contacts among the people of South Asia and the activities of civil society in the region. A number of professional groups in South Asia have established associations extending across borders in the region. These include Accountants, Architects, Cardiologists, Management Development Institutions, Town Planners and University Women in addition to Apex bodies set up by SAARC Chambers of Commerce and Industry, Speakers and Parliamentarians and the legal profession. Some of these associations including the South Asian Accountants, Management Development Institutions, SAARC LAW and Architects are in fact organising events in various South Asian capitals on SAARC Day.

Among other groups which are also in the process of establishing linkages across South Asia in respect of their particular areas of specialized activity are the Engineers, State Insurance Organisations, Teachers, Computer Institutes, Master Printers , Surgeons, Radiologists and Film Producers.

Civil society coalitions including the Coalition for Action on South Asian Cooperation (CASAC) are indeed focusing on precisely those areas in which the official SAARC process is also engaged and the contribution made by many eminent South Asians has been invaluable. All this helps to develop a stronger sense of South Asian identity which is increasing throughout the region and which is not lost on Governments.

The activities and advocacy of different sectors of civil society are sometimes described in general as a parallel track to the SAARC. Parallel tracks by definition run side by side and do not meet. Closer interaction between Governments and civil society is therefore essential and needs to be encouraged even if views do not always coincide. SAARC provide an institutional framework within which useful encounters of the practical kind can be facilitated We all are shareholders in the future of a peaceful and progressive South Asia.

I wish the South Asian People Summit 2000 organized by SAP–I well.

**FROM I. K. GUJRAL,
FORMER PRIME MINISTER , INDIA**

I am glad to learn about the holding of Inaugural Session of the People Summit 2000 at Colombo. Unfortunately I am missing this opportunity to be in the midst of esteemed friends. The South Asia Partnership International has undertaken to discuss at length various vital issues concerning South Asia. It is my earnest faith that the approach will center around bringing leaders to a common platform to make deliberations on the boiling waters in the region and it may be the mutual understanding and cooperation through which mutual interests can be gained. Holding People Summit 2000 at this stage would be a step further in improving relations when the humanity has already stepped into the 20 century.

On this occasion, I extend my good wishes for Summit's success and wish a bright future to the participating leaders.

FROM HIS EXCELLENCY PRESIDENT OF PAKISTAN

I have learnt with pleasure that South Asia Partnership International is organizing South Asian People Summit 2000 at Colombo with a view to addressing the issues that confront the region today.

On this occasion, we can only reaffirm that South Asia needs to find its own solutions to the problems that the people of the region are facing today. In fact never in the past was this need more pressing than it is at this crucial juncture. It is our firm belief in Pakistan that the people in South Asia have great potential to shape their own destiny and hold the key to a bright and prosperous future. Despite the many diversities, they need to work in unison to achieve this goal. It is incumbent upon the respective governments and NGOs to assist in this process.

To achieve these noble goals, the task taken upon itself by South Asia Partnership International is commendable and I wish the participants of the summit every success in their deliberations.

HER EXCELLENCY SHEIKH HASINA, PRESIDENT OF BANGLADESH

I am pleased to learn that the South Asian People Summit 2000 is going to be held on 08-10 December in Colombo. I felicitate the participants of the summit.

The South Asian Countries have common socio cultural and economical background. Though the region provides the richest bio-diversity in earth, still more than half of its people live in extreme poverty and despair. I hope the summit will discuss the issue with due priority and would be able to suggest the proper solutions to it.

I wish the summit a grand success.

**Joi Bangla, Joi Bangabandhu
May Bangladesh Live Forever**

4.0 INAUGURAL SESSION:

People Summit 2000 was inaugurated in the presence of over 400 people at the BMICH on Friday 08TH December 2000.

The welcome address was delivered by Mrs. Jezima Ismail, Chairperson, SAP I. She stressed the value of the indomitable spirit of South Asia that would endure much, yet has the resilience to build and sustain a bright future. She was optimistic that the sense of solidarity represented by the participants augured well for the future and that their experiences and networks will pave the way for a brighter future for the region. The Executive Director, Dr James Arputharaj emphasized the purpose of the People Summit. – as an effort to alleviate the continuous struggle and the deep-seated problems of the people of this region. He stressed the need for the promotion of networks that could implement solutions to problems that prevailed at both common and regional levels. Dr Arputharaj stated that if governments cannot meet, the people should meet. Mr. Milton Aponso, Board Member of SAP I and Dr. Padma Ratnayake, Executive Director of SAP Sri Lanka next read out the messages received from Her Excellency the President of The Democratic Socialist Republic of Sri Lanka, Mr. Nihal Rodrigo, Secretary General, South Asian Association for Regional Cooperation Secretariat (SAARC) and Mr. I.K. Gujral, former Prime Minister of India.

A number of distinguished speakers then addressed the gathering.

Speeches delivered at the South Asian People Summit, Colombo, Sri Lanka, December 8, 2000

4.1. Dr. Kamal Hossain, Former Judge of Supreme Court, Legal Aid & Service Trust, Bangladesh **ROLE OF CIVIL SOCIETY IN PROMOTING HUMAN DEVELOPMENT** **AND BUILDING DEMOCRACY**

I welcome this opportunity to share my thoughts and concerns with colleagues from the SAARC region, who identify with civil society. In this South Asian People Summit, we are drawn together by our resolve to assert our right to be 'human', in the fullest sense of the term - to work together, to contribute meaningfully to transform our societies so that we, ordinary women and men, and our children, can live in freedom and with dignity.

a) Role of Civil Society in building democracy

We have all at one time or another, in one form or another, experienced the exhilaration of liberation - when people's power has emerged as an invincible force, born out of a purposeful unity forged by women and men in pursuit of freedom and justice. We have celebrated victories which have humbled tyrannical power, that had appeared to be indestructible, in country after country, yet the fruits of victory have often proved to be all too elusive. Tyranny and injustice are re-born in new guises, and behind new masks. The question which faces us is how can people's power be made to endure, so that it can build a society in which freedom and justice will be sustained in enduring institutions.

It will no longer do to present formula answers to this question by simply prescribing empowerment, participation, democratisation. No, these have been all but reduced to slogans - to which lip-service is ritually paid, but little is done to make them living realities. Let us instead think of strategies. Let us learn from successes and failures. Failures are many, but there are some successes.

We need to recognize the imperative while respecting pluralism and diversity of nurturing in civil society, a durable unity based on a sincere commitment to certain core human values - human dignity and the fundamental rights that derive from it, equality of all persons - women and men, equality before the law, equality of opportunity - the rule of law including independence of the judiciary. We must be vigilant to ward off the threats to this unity and assaults upon it from those powerful forces who feel threatened by a strengthened civil society. These forces exist in every society - a mutually-supportive alliance of power and wealth, which are self-serving and willing to use any means to achieve their purposes. Examples abound of how they promote violence, discord and division by inciting communal and ethnic conflict, thus undermining the development of democratic institutions. Where these forces prevail we witness the phenomenon of the cartelisation and criminalization of politics, and the consequent dis-empowerment of people and weakening of civil society.

Societies engaged in transition from an authoritarian to a democratic political order face a formidable challenge. The institutions, values and mind-sets which are the legacies of the past persist. Traditions of arbitrariness, secrecy, decision-making without consultation and open debate, and lack of accountability impede the building of a framework of good governance in which democratic institutions can be nurtured under the rule of law.

The negative legacies of an authoritarian past cannot be expected simply to go away. Such legacies include centralised bureaucracies which remain allergic to transparency and accountability, being accustomed to the arbitrary exercise of wide discretionary powers; law-enforcing agencies which have habitually acquiesced in carrying out illegal and repressive orders; and a social milieu which discourages dissent, the free expression of views and open debate on public issues.

Before the transition there were no checks and balances which acted as safeguards against the abuse of power. Judicial independence, if it existed at all, had undergone serious erosion. As a result, violations of human rights were not substantially redressed and victims could hardly expect justice in the absence of the rule of law.

Where democratic values had been absent for long, civil society was weak, engendering in citizens a sense of helplessness and inertia. Channels to ventilate genuine grievances and felt injustices were absent. As the lid was lifted with the advent of democracy, their suppression led to outbreaks of violence. This in part is why in many transitional societies sectarian, communal, linguistic, religious and ethnic conflicts have erupted and threaten the newly-won democracy. Lack of democratic process to reconcile conflicting claims and to redress injustices has meant that, in some countries, multi-party politics tended to degenerate into extreme partisanship, party patronage, clientelism and ultimately into violent confrontation among party followers.

b) Building a Democratic Political Order: Sharing Experience

Positive lessons are to be learnt from the experience of those societies which have promoted the healthy development of democracy and protection of human rights; foremost among these is South Africa.

Innovative constitutional provisions and participatory institutions have been devised which inspire and enable ordinary citizens - women and men - to be pro-active in promoting and protecting human rights - their own and those of other women and men - and in the exercise of their rights as citizens. The new South African Constitution has a number of such provisions which secure for members of civil society access to information, access to the courts to enforce fundamental rights, and access to the legislative process itself. Thus, Article 32 provides that everyone has the fundamental right of access to any information held by the state. Article 38 provides that any person may approach a competent court for enforcement of fundamental human rights and any person acting in the public interest, or anyone acting on behalf of another person who cannot act in his or her own name, or anyone acting as a member of or

in the interest of a group or class of persons - thus elevating public interest or social action litigation into a constitutional remedy; and Article 59 guarantees public access to the legislative process by providing that the National Assembly must (a) facilitate public involvement in the legislative and other processes of the Assembly and its committees, and (b) must conduct its business in an open manner and hold its sittings, and those of its committees in public. This faith in the people and in civil society is a fundamental pillar of the constitution.

The imaginative and innovative processes of national reconciliation, through discussion and negotiation, through teaching and disseminating democratic values via the media and schools, through the churches, and through civic and other non-governmental organisations, have shown the world what is possible. South Africa has proved that a democratic society can be built on the debris of a collapsed authoritarian political order.

The constitutional provisions were reinforced by practical measures to nurture a culture of human rights through implementing imaginative legislation. One example was the law setting up the Independent Media Commission, which allowed the media, especially the state-owned electronic media, to play a truly impartial role in the run-up to the election. The values of tolerance, critical discussion and evaluation of the many political parties were promoted through open debate and free exchange of information and views.

c) Human Development and Human Rights

An effective strategy for human development has significant implications for the implementation of economic, social and cultural rights, and in particular the rights of the poor and disadvantaged, and of women and children. The linkage between democracy, development and human rights is underscored by studies which have documented how "bad governance leads to incompetent and often discriminatory administration of social services and development projects, widening social gaps ... and constitutes a major obstacle to social development,"

There is also considerable evidence of the impoverishing effects and basic inhumanity of gender discrimination - in terms of prescribed and limiting roles, lack of economic opportunity, health care geared to the needs of women and children, access to education, credit, land, income and property, and playing a role in institutions which enable popular participation.

Despite recognition that active participation by citizens is essential for the implementation of human rights, promoting human development and the working of democracy, in practice this is obstructed by the mind-sets developed over decades in bureaucratically regulated environments. Participation rhetoric does not by itself remove such obstacles to participation as:

- Constraints on rights of freedom of association and assembly, resulting from the need for licensing civic groups, professional bodies, workers, organisations, and cooperatives and other forms of NGO activity.
- Repressive policing practices used in the name of public security.
- Secrecy entrenched both in the culture and formal rules contained in outdated legislation which denies access to information, let alone recognises "duties to disclose."

It is important for moving forward towards consolidating democracy to nurture consensus among different sections of society and to provide for resolving competing claims among them, and such

differences as may arise, through democratic processes, through consultations, dialogue and discussion and through democratic institutions.

Violence both by the state and non-state actors must uncompromisingly be subordinated to the rule of law which is a necessary pre-condition for the growth of democracy. The nurturing of consensus to replace confrontation is equally critical as is underscored in a recent report of the Club of Rome:

"In face of the gravity of the decisions that will have to be taken in the near future, artificially stimulated party rivalries, generated by attempts to win popular votes at the next election and often not even based on real ideological differences, could lead to disaster. There is an overwhelming need to establish the maximum of common agreement between political parties claiming to be custodians of the national good, if we are to weather the many storms ahead."

The building of coalitions among parties committed to the core values of democracy and coalitions of pro-active citizens committed to human rights and democracy are of vital importance in promoting human development and building a democratic order.

The sharing of experience can play a critical role in the process of building democracy in the SAARC region. Programmes for effective co-operation among those committed to building democracy in our region can make useful contribution towards nurturing and strengthening democratic institutions in their respective societies. The exchange of regional teams of observers in elections could help to strengthen the institution of free and fair elections. In South Asia this institution has been growing steadily and election observers are invited from neighbouring countries to monitor elections. Experience which could help to promote the process of democratisation can be shared. These areas include electoral reforms to improve the framework for free and fair elections, administrative reforms to promote transparency and accountability so as to reduce arbitrariness and corruption, and legal and judicial reforms to strengthen the independence of the judiciary and the rule of law, so that equal protection of law becomes a reality for all, including the weak and the poor. Innovative approaches could be adopted to disseminate democratic values and awareness and respect for human rights. A SAARC human rights commission to monitor the observance of minimum human rights standards which are universally recognised might be another useful initiative that may be included in the agenda.

Footnotes

1. Albie Sachs. **Protecting Human Rights in a New South Africa**. Cape Town 1990.P.19.
2. James Paul, **Incorporating Human Rights into the Work of the World Summit for Social Development**; American Society of International Law, 1995, pp 13-14.
3. Ibid, p. 10.
4. Lionel Demery et al. **Understandign the Social Effects of Policy Reforms**. A World Bank Study. The World Bank, 1993
5. **Governance and Development**, World Bank Report, 1992 p.47

4.2 **Mrs. Nandana Reddy, Director Development, Concern for Working Children, India**
CHILDREN AND DEMOCRACY

“Grown-ups never understand anything for themselves, and it is tiresome for children to be always and forever explaining things to them.”¹

Madam Chairperson, distinguished guests, members of the press and friends,

Some of you are very dear and old friends and it is good to be able to renew contact with you once again. I have SAP-I to thank for this unexpected gift, specially as I come from India, a State that seems to have successfully made enemies of almost all its neighbours with the exception of Nepal, making it more and more difficult to have gatherings like this.

I thought that I was going to be the third speaker and even then felt that it was going to be difficult to follow the distinguished and eloquent speakers that went before me. However now I find that I am the 12th speaker and it is close to lunch! I can only promise to try not to put you to sleep. However, I hope this is not a reflection of the priority that children’s issues get in the general scheme of things.

I have made several trips to your beautiful island. The first was when I was one year old. I came here with my parents. My mother Snehalatha Reddy was an actress and she was featuring in a play produced by David Lean. She later died fighting the ‘State of Emergency’ in India. However, so many years ago she was here to perform in Colombo. I spent my first birthday here among many friends, many of whom retained close ties with our family for years. There was warmth and friendship. Our countries were at peace with each other.

Now there are tensions between our countries and yet the warmth between the people of our countries, be it Pakistan, Bangladesh, Nepal or Sri Lanka still exists. I have made new and very dear friends here, Erika and Hiran Dias, Dulan D’silva, Glen de Mel and many others.

And yet it is a time for tears, for sadness, for regret over past and present mistakes made in haste and the thirst for power. On entering the 21st century this Asian sub-continent finds herself in a state of political turmoil. We of this very old and wise sub-continent are splintering and dissolving into a cesspool where people are pitting people against their own, where brigands reign supreme because of their political connections and violence and suspicion are the order of the day.

We claim that our countries are progressing into higher brackets of development, we produce more food grains than we did 20 years ago, we are among the leaders in the IT sector, our communication systems are near world class and yet more that a third of our populations live in abject poverty. There are thousands of people who are victims of displacement due to mega projects funded by the World Bank, farmers driven to suicide, tribal populations uprooted from their means of livelihood and way of life and artisans who have laid down their tools with the increasing globalisation of world markets.

And amidst all this are the children, the ones who are the most affected, the unrecognised victims of an unacknowledged war against the silent majority of our countries.

I have come here to speak on behalf of these children, for I sincerely believe that they are our only hope of peace and unity in this region.

¹ The Little Prince by Antoine de Saint Exupery

I have come to share with you the experiences of my organisation, the Concerned for Working Children (CWC) the perceptions, struggles and achievements of the working children we work with our dreams of how children would eventually participate in decisions concerning themselves, of how they would change existing structures into more democratic ones of how they will occupy political space and participate in governance thereby changing the nature of the society we live in from a paternalistic one to a one of partnership².

I am also here to share with you examples of how some of these dreams have come true. I would like to take you with us on part of the journey we have travelled if only for a short time, to tell you what we have done in partnership with working children and to share with you our vision for the miles ahead.

There are many battles being fought in our countries by the marginalised; the long battle by working children, the Dalits, women, tribal communities and displaced persons. The issues and the principles of all these struggles are common the question of peoples control over their own lives and resources, their lack of political voice, the adverse effects of structural adjustment and the policies and laws passed by indifferent governments and government officials that benefit the rich and push the poor into unimaginable depths of despair and put children into extremely difficult circumstances.

We are not perfect and neither is the world we have created. We, the adults of this world, are responsible for the problems our children face. They see the structures that we have put in place as the cause of their predicament. They tend to know what is wrong with it and often times know what needs to be done to change it. They have no reason to trust us because we have given them no cause to do so. Any attempt to make them accept our norms and values, to convert them into mini clones of us would be to do a grave injustice to them.

Prema is a very poised young girl. She lives in a tiny village called Uppunda that nestles between the Arabian Sea and the Western Ghats in South India. It is a fishing village. Prema and her family belong to a low caste in the social hierarchy. The boys in her family are taught how to fish and the girls and women run the home and do all the menial chores. A primary occupation is the collection of firewood from the forests on the slopes of the foothills. This means waking up at 2 am, walking 10 to 11 kilometres and returning with a head load of firewood by afternoon.

Prema went to school for a few years but found it impossible. She learnt nothing and nothing made sense to her. The teacher could not manage the class of 100 children and just made the children repeat the alphabet and numerals after him. She found no relevance in what was being taught in school to her life. It did not help her cope with her domestic problems; there was no information on health. It did not help her understand the physical and emotional changes she was experiencing. It did not tell her about reproduction, the protection of her body or childcare. School did not help her to deal with the forest guards when she went to collect the firewood, or show her ways of coping with her position as a girl from a low caste family in a patriarchal community.

Instead, Prema was treated badly in school because of her caste. Finally her teacher told her that she was only good for carrying cow dung and breaking fish heads. She felt humiliated and she left school like many others. After four years of schooling she could barely read the alphabet.

Learning is fundamental and inseparable from engagement in the world. Knowledge is integrated in the life of communities; learning is how people gain membership and participation in community. Learning is an act of membership; motivation in learning lies in the intimate relation between the

¹ The Chalice and the Blade – Riane Eisler, Harper San Francisco 1988.

desire for participation and the role of new knowledge in enabling that participation. Knowing depends on engagement in practice, only in the classroom is knowledge presented in the abstract. Engagement is inseparable from empowerment. Failure to learn is the result of exclusion from participation; people denied membership with the right to contribute in the creation of meaning cannot sufficiently engage to learn easily.³

The education system in India, like most countries in South Asia, is far from this ideal. A system evolved from an education system designed by the British to produce clerks for the Colonial Bureaucracy, it dis-empowers children rather than empower them. It perpetuates social stratification and is one of the causes of child labour at its best.

But it is not just the education system that affects our children adversely. In India thousands of children were pushed onto the streets because of a recent judgement by the Supreme Court. In Bangladesh 36,000 girls were thrown out of the export garment sector because of a bill that was tabled in the US Senate by Senator Bill Harkin banning the import of products by children. In Meknes there was a similar retrenchment of girls in the garment industry because of an expose by Granada Television of Marks and Spencer. From the information gathered as a result of studies that followed it was found that all these girls were working legally according to the law of their countries, that not one of these girls had gone back to school and that they are all worse off than before.

We live in a paternalistic society. A society that is controlled by the minority elite that in order to protect its interests suppresses the majority. A body politic that uses structures to marginalise the weaker and less fortunate. Most of all we ignore our children, the future generation the owners of the new millennium. State structures, the judiciary and parts of civil society all collude to keep vast groups of people at the bottom of the socio/economic and political triangle – and children have no place at all, no voice, no strength and no control.

Presented with this scenario, the Concerned for Working Children (CWC)⁴ decided that the only way to solve the root causes of this problem were by creating ‘political space’ for children. Our role would be to enable children to occupy and use this space effectively to change structures and programmes to ones that improve the quality of their lives and that of their communities. To do this the children needed to gain strength through collective action, own and use information and be able to access and utilise human and material resources.

However the elite amongst us adults controls this space. We had to find a way to ‘convert’ those in power to accept children as partners in change. We decided that it would be best to approach it from the bottom up as going down the hegemonic ladder people were closer to the reality of what children faced.

After her disastrous experience in school, Prema joined **Bhima Sangha**⁵, a union for, by and of working children. She was able to share her problems and frustrations and gain great strength from knowing that there were others like herself. Collectively they began to find solutions to the problems they faced and Prema’s self confidence grew.

3 Martin Woodhead – at the Child Rights Conference, Kathmandu, May 2000.

4 A private development agency dedicated to address the problems of working children – Website: www.workingchild.org

5. Bhima Sangha is a union by, for and of working children in Karnataka. It has a membership of around 25,000.

However the children were not satisfied with this. They wanted all the children of an area or village to come together. With our help they set up a '**Makkala Panchayat**⁶' or children's local government in five districts of Karnataka, a State in South India. All the children of a '**Panchayat**' elect a parallel children's government. This election is held by the formal government administration and the secretary of the adult Panchayat acts as the secretary of the children's Panchayat. A Task Force⁷ that is chaired by the District Minister links the adult and children's Panchayats.

Prema was elected to the '**Makkala Panchayat**' in her village and she became the President. At this time all the children decided that they needed more information about the causes of child labour and the resources available in their communities if they were to influence their local governments to take corrective action. They decided to do a house-to-house survey in 12000 households and asked for our help to design this piece of research. Prema supervised the survey in her cluster of villages.

During this process Prema had to interview her old teacher and his family. She was also the one to present the findings to the adult '**Panchayat**' and argue for the demands made by the children, her electorate. She managed to get all the demands accepted and many of them have been effectively addressed such as the implementation of a more appropriate and quality education, full day child care centres, easy access to fuel, fodder and water, the construction of foot bridges and more freedom for girls.

Her moment of glory came when her old teacher stood up in a '**Panchayat**' meeting and honoured her. He was amazed at her capacity to handle the complexity of the survey and her presentation skills. He apologised for what he had said when she was in school and praised her intelligence and leadership qualities.

Prema is now a respected and proud member of her community. She not only reads and writes, but also represents her constituency in national and international meetings. She has traveled to many countries. Recently she made a big impression on the children of Japan who have as a result initiated a Children's Rights Movement in Japan. Prema now stands tall. Her dream is to become the president of the local government – a dream that is more than likely to come true.

I wish to tell you one more story, an incident that occurred just before I left for Sri Lanka. I do this to try and bring children into this room and hope that their voices will be heard.

Vanaja is another young lady who was the first girl who graduated from our Appropriate Construction Technology programme. She comes from a small village called Kalavara on the foothills of the Western Ghats in India. She heads a construction group and now lives in Kanyana Village on her own. She was a member of **Bhima Sangha**⁸ and is now a member of **Namma Sabha**⁹. Recently she led an amazing struggle for 'land for the landless' and succeeded.

Vanaja and some others had built houses on open land belonging to the Gram Panchayat while they waited for their applications for land under 'land for the landless scheme' to be processed.

5. The Makkala Panchayat (Children's Panchayat) is a structure recognised by local governments.

6. The Task Force is a part of the local Government and all decisions are recorded in the Gram Panchayat.

7. Bhima Sangha is a union by, for and off working children in Karnataka. It has a membership of around 25,000.

8. Namma Sabha is an organisation of young workers.

However there was a complaint against Vanaja from one of the landowners to the Gram Panchayat. They did not like the idea of a young girl living alone. Two days later the Secretary of the Gram Panchayat came asking questions. Who had given her permission to build on government land, how much did she pay in bribes etc. She said that the land was empty and she had paid no one any bribe. Why should she pay a bribe for government land?

The Secretary obviously did not like Vanaja's boldness and wanted to know why someone from another Panchayat should come here? People from other Panchayats were not entitled to get land here.

Vanaja wanted to know whether everyone had to live and die where they were born. Didn't people go to other places in search of work? And Vanaja proceeded to give him a list of examples. Others in the colony joined in to support Vanaja. The Secretary was incensed. He said that she had no rights. How could such a chit of a girl speak to him like this? He left swearing to teach her a lesson.

The next day Vanaja heard that the Secretary had decided to tear down her house and 17 others. Vanaja was appalled; because of her others were going to suffer. She decided to go and apologise to the Secretary, she begged him not to harm the others but he would have nothing of it. .

Two days later he returned accompanied by two policemen, a few members of the Panchayat, landlords and two trucks. Vanaja and the others in the colony were just preparing their evening meal. The children of some of the households were eating. Without warning, without having issued any notice they proceeded to demolish 18 homes. Vanaja's was the first.

She and the others just sat and watched the destruction for three hours. Their things were thrown out in heaps, their food emptied on the ground, their fires put out. They were asked to clear away their belongings including the wrecked building material. Vanaja refused saying that they had nowhere else to go. Then the Secretary proceeded to auction their belongings.

They decided to protest. Vanaja led the protest with all the effected families. The children of Bhima Sangha, Namma Sabha, others from that village, the Youth Association and the Dalit Sangha joined them as also many Panchayat members from other Panchayats and belonging to all political parties.

They first filed a complaint with the Police Station at the Taluk Head Quarters and proceeded to the Taluk Panchayat Office to lodge their complaint. By that time the members of the Taluk Panchayat realised that a big mistake had been committed. The auctioning of the material was wrong, a criminal offence. They promised to settle the matter. Their offer was 3 cents of land, return of the material and 500 rupees to rebuild the houses. Vanaja refused. She insisted that the Panchayat rebuild the houses.

To ensure that this would happen they camped on the veranda of the Gram Panchayat, slept there, cooked their food there and slung their babies in makeshift cradles hung from the roof.

Now a week later Vanaja's house has been rebuilt and the others are nearly completed. The members that supported the eviction have had to resign. Action is likely against the Secretary.

Vanaja and her friends want to invite the Secretary and the others responsible for the eviction to the inauguration of the rebuilt houses. They feel that this will be a fitting conclusion to this story.

Vanaja is now a local heroine. It is likely that she will be asked to stand for the next election and she will win. She says that she has proved that one who did not have any rights was able to fight and

procure these rights. She may be young and a girl but she has proved that struggles for justice have no age bar. She has just turned 18.

Thousands of children are now participating in the governance of their villages. Adults who were traditionally feudal, patriarchal and gender insensitive have become the advocates for Children's Rights. Many of them do not even know about the Convention on the Rights of the Child. They see a value in the active and equal participation of children as they have seen this translated into overall benefit for the whole community. A sea change in the body politic!

The programme '*Makkala Toofan*' or children's typhoon has enabled systemic changes that formalise political space for children.

There is a saying in Latin America: ***"If you think you are too small to be effective, you have never been in bed with a mosquito"***.¹⁰ The children of Bhima Sangha and the Makkala Panchayats have proved this in no small measure. We the adults in this partnership enabled this by first of all recognising the personhood of children. We needed to establish a partnership with them on the basis of both partners' rights and responsibilities. And we recognised that it was essential to enable children to have access to an education that promotes citizenship and democracy.

These children are firmly rooted in the Indian soil and closely woven into the Indian social and political fabric and they have been enabled to become powerful agents of change. They are waiting on the wings to enter centre stage when they attain majority. They have arrived.

Development cannot be in small incremental measures. The marginalised cannot wait forever. Childhood is a short and transient period - children grow up. To make a real impact we cannot remain an interesting micro intervention, a small oasis in a sea of distress. We have to join together to upscale such initiatives to cover the region.

Hopefully in a few years, what has till now been an experiment in five districts of Karnataka will be the norm in all of Karnataka. If we can do this in India, it can be done in Asia.

Nothing was ever born without a struggle. The wheel of history does not foretell whether its revolving would cease. But once again there is an auspicious constellation of conditions. We stand before the choice of hitting out on a new path or plodding along the old.

We the countries of South Asia still have our identity, our dignity, and our pride. We still have sustainable systems in place. We still are proud to wear our traditional dress. We still eat our customary food. Our villages have not allowed Burger King or Kentucky to penetrate. We still have pride in speaking our language and practicing our culture. The rural majority is still firmly rooted. Penetration by the Multinationals is still very difficult. So if any one can we can – we can beat a new path – a need based one, not one based on greed. We can show the world a new model of development.

However, in order to do this we first have to unite. We also have to see things through new eyes. We have to shift our paradigm and view the world through the eyes of our children. They have shown us the way as they have the key to a new age and the Vision of a New World. They have taken our hands and led us through the door of the new millennium with a surge of hope and commitment to change. We are grateful that they see us as partners in shaping their future.

10. NATS, Latin America

We can no longer peer down at children through our microscopes treating them as mere subjects of our interventions. We need to recognise that children, just like us, want to be the masters of their destiny and wish to shape the world they will inherit from us. Children can and will change things if only given a chance. They will begin a peaceful and silent revolution that will change the face of the globe.

I therefore propose before this august gathering that we enable a South Asia Children's Summit a SAARC of children that becomes an integral and recognised part of the SAARC structure. I propose that we do this not as a symbolic gesture, but as a serious effort to enable children's views to be heard at the regional level. We, the CWC would be happy to assist in enabling such an effort. They have a right to determine the quality and nature of the region they will inherit. They would be the true ambassadors of peace.

My mother wrote a play just before she died called 'Sita'. In this play, Ravanna is the hero, not Rama. My mother felt that Ravanna was the superior human being as he was capable of love. He was willing to risk his kingdom for Sita, where as Rama sacrificed Sita for his kingdom. Above all we must learn to love, there are not enough of people's movements, heroes or struggles; and the struggle that the children are engaged in is not even acknowledged. They know how to love, to hope and to dream. Things that we adults have forgotten how to do.

Gandhijee wrote in August 1947¹¹ – ***“I will give you a talisman. Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself if the step you contemplate is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny? In other words, will it lead to Swaraj for the hungry and spiritually starving millions? Then you will find your doubts and yourself melting away.”***

Let us give our children a talisman. Let them have control over their life and destiny. Let them lead us to ***Swaraj***.

11. Note [August 1947], pg. 91, The Penguin GANDHI reader, Rudrangshu Mukerjee.

4.3 Admiral L. Ramdas, Former Chief of the Naval Staff, India
SYNOPSIS OF SPEECH

Admiral Ramdas commenced his address with a quotation from Swami Vivekanada.-

“India will be raised not with the power of the flesh, but with the power of the spirit not with the flag of destruction but with the flag of peace and love”

He commented that India as the land of Buddha, Asoka and Gandhi has always proposed belief in “Peace and Justice”. The country’s size and shape and her reservoirs of resources, both human and material, imposes on her a special responsibility for ensuring peace and progress in the region. He stated that for almost half a century the “Face off” between India and Pakistan has held to ransom over 1.5 billion people of South Asia. Similarly, the ethnic conflict in Sri Lanka which has lasted nearly a quarter century has brought untold hardships and misery to both the Tamil and Sinhala people in the country.

The Admiral emphasized the dangers of nuclearisation of the sub continent as these weapons have never really been able to provide the deterrence that all nations had hoped for. Any use either by accident or danger could bring destruction to the entire region and therefore there is an urgent need to create a South Asian Nuclear Free Zone. Furthermore, he stated, it is essential to foster contacts among people at all levels in India and Pakistan. The Pakistan- India Peoples’ Forum for Peace and Democracy of which he was the president of the Indian Chapter had achieved some success in this field. The Admiral declared he could see no alternative solutions to such complex issues except through dialogue. He concluded that the SAARC performance or lack of it needs to be highlighted and that there is a necessity in this context to involve NGOs and Civil Society Groups in an integrated manner with governments.

4.4 Mr. Karamat Ali, Director, Pakistan Institution of Labour Education & Research, Pakistan
SYNOPSIS OF SPEECH

Mr. Karamat Ali’s address stressed the need to achieve a common South Asian objective. He believed that not much progress has been made in this direction and that it is time to question why this has been so. The multi- ethnic, multi -national, multi -religious nature of the South Asian community must be recognized. Yet it is essential to establish a South Asian identity. The speaker emphasized that the rights of the working people should be protected and indicated that today the working people have less rights than they had in 1947. He saw the countries of the region as having sold their sovereignty. The need to concretize the rights of working class, women and children as Human Rights was stressed. There should, he said, be a South Asian Labour Forum. Another imperative in his opinion was the demand for a comprehensive cease-fire in the region.

4.5. Mr. Damman Nath Dhungana, former Speaker of House of Representatives, Nepal
SYNOPSIS OF SPEECH

Mr Dhungana discussed the sectoral forums that have been functioning at grass root level and which facilitate cooperation among South Asian Countries. He sees this present period as a crucial one for South Asia where terrorism and the violation of human rights have had far reaching effects, specially on children. He commented that many governments do not have transparency and instead, nepotism and corruption form the base. Therefore, insurgencies are widespread and poverty is increasing. In his opinion, practice of good governance with social justice and equality is essential and a common forum is required for the eradication of poverty and the development of human resources.

4.6. **Dr. Gamani Corea, former Secretary General, UNTACD, Sri Lanka**
SYNOPSIS OF SPEECH

Dr. Corea stressed the need to be sensitive to the vital issues of the region. Social issues, he commented, must receive special attention as poverty is endemic in South Asia and a large percentage of the region's people live below the poverty line. The ultimate elimination of this poverty is of great significance for the entire world. He noted that the enthusiasm of the earlier period about globalization and the concept of the global village has waned because its benefits have not reached the people. While global trade has expanded with improvements in technology most of the benefits accrued are enjoyed by the developed world creating further polarization between the developed and the under developed. The question he raised is how can globalization help the developing countries?. He pointed out that there is growing awareness of its negative aspects resulting in an increased gap between rich and poor and growing crime and corruption. After the end of the Cold War there was a slowing down of aid from developed countries to the Third World. The Third World countries need to be developed but require international support for this.. The speaker commented that the real strength of the Third World lies in its numbers and this should be utilized to strengthen its negotiating powers for its own advancement.

4.7. **Mr. Richard Harmston, Executive Director, South Asia Partnership, Canada**
SYNOPSIS OF SPEECH

Mr. Harmston described SAP I as a series of linked organisations in six countries – Bangladesh, India, Nepal, Pakistan, Sri Lanka and Canada. He stressed the need to assess means whereby Canadian support could be utilized to nurture People's Movements for Progress. Development through assistance was a journey of discovery, he commented, and injecting finance was not helping. There is a need to invest in Leaders – hence capacity building is very important. South Asia Partnership International gives release to the voices of the People. He believed there should be a North – South Union for common action - South based with a Southern Agenda which will finally change both North and South. There is a further need, he noted, to expand alliances and inject people into policy. What is required is a network or organisations at International level, accelerated by cooperation through local level organisations.

4.8. **Mr. Praful Bidwai, Senior Fellow, Nehru Memorial Museum and Library (NMML)**
India
SYNOPSIS OF SPEECH

Mr. Bidwai noted that nuclear disarmament was imminent in the South Asia region as India and Pakistan thought it fit to arm themselves with nuclear weaponry which, in turn, affected the entire region. He maintained that as radioactive reaction does not respect geographic, political or social boundaries all human beings should strive for a life free of such reactions He referred to the accident at Chernobyl and said that the radio active nuclides released from this catastrophe can still be found in the Arctic, the Indian Oceans and in the Himalayas. As a result, 4000 miles away sheep were slaughtered. The European Union destroyed hundreds of thousands of kilos of milk and butter that had been contaminated. A Nuclear explosion will release 100 –1000 times more of radio active fallout than the accident at Chernobyl. To illustrate, Mr. Bidwai commented that Uranium 235 used in Pakistan Test has a life of 24,400 years and some will be present even later. Mr Bidwai recalled that India had earlier stood firmly against nuclearisation and had advocated that the manufacture and possession of nuclear weapons be declared a crime. Today for the first time India has a weapon that will destroy all life in the region. During the war at Cargil India and Pakistan exchanged nuclear

threats 13 times over. It was Mr. William Cohen from the U.S.A. who by using pressure managed to pull back India and Pakistan from the brink of a great disaster that would spell destruction for the entire region. Action must be taken to stop this process. In summary, a Comprehensive Test Ban Treaty – (CTBT), which prevents the manufacture of fissile material – fuels for Nuclear Weapons-should be imposed. The speaker stressed the pressing need to separate war heads from missiles and to take steps to create a Nuclear Weapon Free Zone in South Asia, as the nuclear weapons India and Pakistan possess have the potential to destroy the entire region.. Nuclearization, Mr. Bidwai affirmed, must be halted today or there will be a radio active tomorrow.

4.9. Mr. Godfrey Goonatillake, Working Governor, Marga Institute, Sri Lanka
SYNOPSIS OF SPEECH

Mr Goonatillake, in his opening remarks, noted that a vision for South Asia was an essential. A sustained demand for popular movements must be maintained and the speaker commented on the initiation taken by SAARC in formulating the Social – Charter. This Charter to be viable must reflect the constraints as well as the opportunities for the People of the region. In his view it should be a mechanism that works from the bottom upwards so that by the time it reaches the Summit it would have already been discussed with all concerned groups.. The Charter, the speaker believed, should be based on the moral wisdom of the Region – wisdom that arises out of the convergence of many civilisations. Such a Charter should be evolved through a participatory process and based upon a commitment whereby rulers of the respective states are accountable for the whole gamut of Human Rights Violations.

4.10 Mr. Ravi Nair, South Asia Human Rights Documentation Centre, India
SYNOPSIS OF SPEECH

Mr Nair stressed on sincerity and credibility as he felt hypocrisy held sway in the world today. He further commented on the negative attitude to Human Rights and was concerned that only lip service was paid to these Rights. Commenting on the SAARC region he stated that the governments had alienated themselves from the people. What was to be deplored was the fact that there was little positive action. An illustration in point was his reference to the report of the International Labour Tribunal in which the lack of complaints illustrates the complacency of those in power, The reality was that peoples' rights, especially those of the common people, were not reflected..

4.11 Mr.George Mathew, Director, Institute of Social Sciences & Secretary - International Board – SAP India.
SYNOPSIS OF SPEECH

Mr Mathew expressed the view that many of the problems facing South Asian countries are the result of lack of communication and cooperation. If decisions are to have long term results, he stated, they should not be made by a handful of persons with vested interests. It is essential that power be given to the people. He believed that the People Summit 2000 would facilitate an exchange of opinions and views across a wide spectrum of subjects and lead to the emergence of a common identity for the region.

4.12 Dr. Mrs. Padma Ratnayake, Executive Director, SAP Sri Lanka

Dr Ratnayake declared that she hopes the recommendations of the Summit will usher in a new era of peace and prosperity for the people of South Asia.

5.0 COMMISSIONS – PROCEEDINGS AND REPORTS

5.1 COMMISSION ON PEACE AND REGIONAL COOPERATION

CO-ORDINATOR : MR. KARAMAT ALI
RAPPORTEUR: EUGENE WIKRAMANAYAKE

Discussions of the Commission were held in two sessions on 08th and 09th December 2000.

At the outset, it was reiterated that Peace was the absence of War and that War at any level was detrimental. It had human costs, ecological costs and economic costs. The economic costs are of special relevance to the South Asian region because defense budgets drain the scarce resources available to alleviate the condition of the socially and economically deprived who form the majority of the population in these regions. Globalization has further increased the problems of this majority.

The strength of South Asia is in the numbers and the rich diversity of its peoples. Democratically elected governments have a duty to protect all its citizens. Most governments of the region however seem to be alienated from the people and dominated by majorities at the expense of the minorities. Concurrently, there appears to be a shift from democracy to authoritarianism in the region. Poor governance promotes dissension amongst the diverse groups of people living in peaceful co-existence resulting in conflicts, which if not resolved, end in war. The reaction of governments is unrestrained militarisation leading to human rights violations of its citizens. There can be no peace without justice or rights without responsibilities. Society when not assured of justice, reacts by fighting for rights at the expense of responsibilities.

Unresolved inter state conflicts resulting in war in the region are even more reprehensible. When the solution as perceived by the warring states is the need to build up nuclear warheads, the South Asian region as a whole is threatened with annihilation.

The Commission discussed the role of SAP I in bringing about peace in the region through mutual cooperation. On each day after the oral presentations, the participants engaged in free discussion and exchange of views.

The first days discussions were centered around the threat to peace in the region. On the second day, the emphasis was on regional cooperation and strategies to resolve conflict – both intrastate and interstate – which were vital aspects of the discussion.

Although there were both intrastate and interstate armed conflicts in the region, the greatest threat was seen as the nuclearization of two member states – India and Pakistan. It was disclosed that there had been secrecy and lack of transparency in the build up to nuclear power. What was conceived as a deterrent to war has produced greater insecurity not only to the two powers concerned but to the whole South Asian region. India was stuck in an arms race – spending 28% of its budget in defence. The same held for Pakistan. Scarce resources for development were drained by nuclearization. In addition, there was no strategy for safeguarding the ultimate use of nuclear warheads. In India, even the National Security Act was repealed in 1998.

The threat of nuclear war therefore, looms large on the horizon of the whole region with the inevitable costs in loss of life of human beings, animals, plants and the accompanying devastation of the ecology. In both India and Pakistan, the media has not played its vital role in making the citizens aware of these dangers. In the rest of the region too, the media has been largely non-committal. An awareness programme had been initiated by the National Convention in India in November 2000. This was followed by an interim charter for nuclear disarmament. Awareness programmes will be conducted in Sri Lanka in early 2001.

The threat to peace in the region brought about by unresolved internal armed conflicts in Nepal, Bangladesh and Sri Lanka were also discussed. SAP Nepal had already initiated a peace building process. In Bangladesh, the conflict was entrenched in religious intolerance and discrimination against the minorities. The question whether secularization of states would lead to the establishment of peace was mooted.

It was noted that in all these conflicts, including the Indo-Pakistan war, cease-fires had been declared. The on going internal armed conflict in Sri Lanka was discussed in depth. At the present moment there is hope for a negotiated settlement. The role of India in the conflict has to be disentangled. The organisations working for peace were divided and there was no awareness of the need for peace. Middle class leadership is lacking.

It was felt that South Asia Partnership, Sri Lanka could bridge the gap. During the discussion it was emphasized that sustaining peace through reconciliation was vital after the fighting ceases. An action plan for sustained peace must include mustering peoples support for changes in governance to downgrade militarization and to eschew violence and protect the rights of the minorities. This could be done by establishing an independent Citizens Task Force at national level. At regional level, the consensus was for South Asian mediation in areas of border or internal conflict towards strengthening the economies of the South Asian states through regional cooperation. The following strategies were suggested:

- The South Asian region should work towards complementary economies with opportunities for trade investments by lower tariffs and removal of visa barriers. The benefits of these must accrue to the people and not be an extension of globalization.
- in order to establish a South Asian identity, there should be free exchange of art and culture and science and technology in the region.
- South Asia should face and interact with globalization as one region and propose a World Trade Organisation with bargaining powers for the Third World.

The following presentations were made during the commission sittings:

5.1.1. Mr. Praful Bidwai, Coalition for Nuclear Disarmament & Peace, India

A PEOPLE'S MOVEMENT LANDMARK: NATIONAL CONVENTION FOR NUCLEAR DISARMAMENT AND PEACE, NOVEMBER 11-13, 2000

They came from near the uranium mines of Jaduguda and the nuclear test site at Pokharan. They represented the Adivasis of the Narmada Valley, the industrial workers of Mumbai, the artisanal fisherfolk of Tamil Nadu, and the peasants of the Gangetic delta of West Bengal. They came from schools and colleges, from art studios and science laboratories from community health organizations and right-to know campaigns: from the semi-desert of Baluchistan, the ash-green south of Sri Lanka, the paddy-growing plains of Bangladesh.

They were feminists and social activists, trade unionists and kisan sabha workers, writers and journalists, physicians and engineers, teachers and students, environmentalists and people's science activists, Gandhians and post-modernists, human rights campaigners and social scientists, artists and film-makers, musicians and theatre people, even former generals and admirals. They also came from Japan and England, Holland and Malaysia, America and Australia, South Africa and France.

They came with hundreds of one-metre-by-one-metre cloth banners signed by thousands, and with scores of posters and paper-crane buntings. They spoke Oriya and Rajasthani, Sindhi and Telugu, Chhattisgarhi and Gujarati, Punjabi and Tamil and English and French.

The 600-plus delegates to India's first-ever National Convention for Nuclear Disarmament and Peace held in New Delhi comprised the most varied gathering of peace activists ever assembled in India. It was, as former Chief of Naval Staff L. Ramdas put it, "a veritable peace fest... and an altogether exciting historic landmark".

The Convention was the culmination of a one-year-long process of meetings and consultations involving nearly 120 groups and organizations, as well as individual peace activists, in more than 10 Indian cities. It was also the beginning of a new phase in India's broad-based Rainbow Coalition-type movement for nuclear weapons abolition.

The Convention offered Indian peace activists the first national-level opportunity to debate a range of theoretical and practical issues, exchange experience, and achieve a degree of clarity on aims and methods. It established India's first ever **Coalition for Nuclear Disarmament and Peace (CNDP)**, a network with a 50 member Coordination Committee.

The Coalition gives India's peace movement an organized national presence and profile. This fills a major void. Since the 1998 nuclear tests, there have been sustained – and growing – protests in more than 40 cities against weapons of mass destruction and India's nuclear policy *volte face*. These tended to be discrete, and unconnected to a coalitional structure with a national (and international) presence, profile and perspective.

Matters changed with networking among different groups early in 2000 and the holding of three preparatory meetings – in Nagpur (on March 26 and July 31), and in Delhi (on October 7), interspersed with an intense and very robust email debate on the Convention's concept, function, programme, organization, composition, finance and logistics.

Three-fourths of the Convention's delegates came from outside Delhi. They all paid for their own travel and on an average spent a week in preparing for and attending the Convention.

There were 50 delegates from Pakistan (down from 60 owing to nasty visa problems), 15 from the rest of South Asia, and about 20 peace activists from Australasia, Northeast and Southeast Asia, Africa, Europe and America. They included star campaigners such as Bruce Kent and Jeremy Corbyn (MP) from the Campaign for Nuclear Disarmament (CND), representatives of the Abolition – 2000 network, and Japanese activists, besides the Pakistan Peace Coalition.

The Programme of the Convention, spread over three days, was divided into five Plenaries, 22 Working Group sessions in four broad categories, and cultural events culminating in "**Celebration of Peace**", with live music, theatre and poetry recital, in Central Delhi.

The venue for the first two days was Springdales School (Dhaura Kuan). The Final Plenary was at Lady Shri Ram College (Lajpat Nagar), followed by the Mandi House public event.

The flow of the Convention's deliberations led from an analysis of recent international and national developments; discussions on how to construct a strong moral, legal, political and security-based case against nuclear weapons and their impact, understanding the experience of peace movements regionally and globally; and developing strategies and campaign tools for an abolition movements in South Asia.

The deliberations ended with the adoption of an Action Plan and an Interim Charter, and the election of a Coordination Committee. The Action Plan includes a number of specific programmes and campaigns, including regional disarmament conventions and sectoral meetings of professionals, advocacy and lobbying of political parties, "twinning" of 10 anti-nuclear weapons schools and colleges in India and Pakistan, institutionalizing a "Nuclear Disarmament and Peace Week" from August 4 to 10 every year, and setting up a national federation of radiation victims, besides enhancing the South Asian peace movement's presence in international peace forums.

The inaugural Plenary, chaired by Gandhian Nirmal Deshpande and social scientist Rajni Kothari, set the tone and broad agenda of the Convention. The speakers included novelist Arundhati Roy, former Admiral L. Ramdas (on Nuclear Abolition: The Task Ahead), energy scientist A.K.N. Reddy (The Immorality of Nuclear Weapons), Narmada Bachao Andolan leader Medha Patkar (The Case for Peace) and M.B. Naqvi and Karamat Ali (both from Pakistan Peace Coalition), besides Praful Bidwai (who introduced the Convention's rationale), as well as the two chairs who read a few of the 30-plus solidarity messages received from peace networks and organizations and one government (New Zealand).

The principal thrust of the speeches was on the immorality of nuclear weapons, the fallacy of nuclear deterrence, the crucial importance of comprehensive human security, and need to build the broadest possible social coalition for peace.

Following the Plenary, the first set of Working Groups dealt with "The Case against Nuclear Weapons" , with five sessions on Nuclear Doctrines, Peace and Security Issues in the Global Scenario; Security Issues and Nuclear Weaponisation of South Asia; Militarisation and the Scientific Establishment; Indian Security and the Draft Nuclear Doctrine; and Nuclear Restraint Regimes: CTBT, FMCT, De-alerting,etc.

The discussions were initiated wherever possible by mixed teams from India, Pakistan and elsewhere, and encouraged full participation from all present in Indian languages (with informal interpretation) as well as English.

The Groups stressed the deterioration in South Asian security caused by nuclearisation, the further hardening of India's (Pakistan's) nuclear postures since 1998, and the growing danger of a new arms race from U.S. anti-ballistic missile programmes. Differences between participants remained sharp on the issue of the Comprehensive Test Ban Treaty, although there was better appreciation of divergent position. There was **complete unanimity** that there must be no further nuclear tests, no acquisition of fissile material and no research on nuclear weapons. (See the attached tentative Charter).

The second category of Working Groups dealt with "The Impact of Nuclear Weapons on the People" with sessions devoted to the Culture of Militarisation and Male Supremacism, Communalism, Nationalism and the Bomb; Connections between Nuclear Weapons and Nuclear Power and Issues of Safety, Transparency and Efficacy; the Economic and Social Costs of the Bomb; Legitimising Nuclear Weapons: The Role of the Media; and Effects of Nuclear Explosions/Accidents.

These Groups generated a potent critique of the ideology of nuclearism and its contribution to virulent nationalism, communalism, and male-supremacism, with an emphasis on nuclearisation's onerous economic and social costs and harmful impact on health, food security, employment and education. The mainstream media's role in promoting chauvinistic nationalism and in legitimizing nuclearism through unbalanced news and comment came in for widespread criticism – itself validated by the appallingly poor media coverage the Convention received.

Surprisingly, the issue of the nuclear power-weapons link, and of the viability and desirability of nuclear power generation, which was widely expected to generate heated debate, produced a remarkably sober discussion, with even the staunchest proponents of nuclear power conceding that in their existing designs and operational practices, most nuclear installations are far from safe or economical.

They did not contest AKN Reddy's computation of the high cost of nuclear electricity, or his support for cheaper alternatives. There was a dispute over the inevitability of the power-weapons nexus. But there was full unanimity that there must be no compromise on health, safety standards or transparency.

Physicist M.V. Ramana made a significant presentation on the effects of nuclear explosions and accidents, building upon his earlier work, *Bombing Bombay*.

The Evening Plenary, chaired by Perin Romesh Chandra, heard summaries of the discussions in the Working Groups.

November 12 opened with a plenary, chaired by Syda Hamid, Zaki Hasan (Pakistan), Kuldip Nayar, Bishop William Moses, and heard a series of presentations on the activities and concerns of delegates representing different regions, sectors and constituencies.

The Plenary discussed the movement's progress in different parts of India, in South Asia and the World. Of particular importance were reports from the states, the semi urban areas of Uttar Pradesh, Rajasthan and Tamil Nadu, besides campaigns in major cities like Calcutta and Bangalore.

This plenary was the main forum at which the international delegates spoke about their activities in national movements and in international coalitions like Abolition-2000(a network over 2000 peace groups), New Agenda Coalition (comprised of Brazil, Egypt, Mexico, Ireland, New Zealand, South Africa and Sweden), the Middle Powers Initiative, the World Court Project (which led to the legal verdict against nuclear weapons in 1996), and the Nuclear Weapons-Free Zone Network etc.,

The speakers outlined the opportunities available to peace activists to lobby international disarmament forums. They emphasized the significance of the growing South Asian peace movement for abolition efforts worldwide, and more important, for the global peace movement. Some said the center of gravity of the global movement is shifting to South Asia. Some others argued that the South Asian abolition campaign has already become an **indispensable input into the international movement**, one which would rejuvenate it, and help it get out of the state of decline into which it has drifted in many NATO and former Warsaw Pact countries after the Cold War ended.

Following the Plenary was the Third set of Working Groups, on building a "Movement in India Against Nuclear weapons: Sectoral and State wise Strategies". Simultaneous with these, there was a special Session on the "Campaign for Safety and Environmental Aspect of Nuclear and Uranium Mining", chaired by Dharendra Sharma and Ghanashyam Biruli, the grassroots activists from Jaduguda uranium mines.

The eight Working Groups focused upon specific sectors; including Statewise Strategies; scientists and Doctors; Media, NGOs, Panchayats, States; Women; Trade Unions; and Artists.

Their deliberations produced specific proposals on how to put nuclear disarmament on the agenda of youth, NGOs, medical and scientific associations trade unions the women's movement, etc, by underscoring the practical impact of nuclearisation on their priorities, as well as on the larger society and politics. Of particular relevance was the Working Group on sensitizing the Media to non-conventional notions of security.

This was followed by the screening of an award-winning documentary by Shri Prakash (Jharkhand), "The Buddha Weeps at Jaduguda", which depicts the havoc wreaked upon the health of uranium miners and their families by patently unsafe practices and avoidable exposure to radioactivity and other toxins.

The fourth (and final) session of the Working Groups was devoted to the nitty-gritty of developing "Networking, Methods, Forms – Campaign Experience: Methodologies and Campaign Materials for Different Constituencies".

These sessions focused on educational material and cultural products, including videos films, theatres, songs, dance, posters, cartoons, etc., and discussion on Networking and Resource-Sharing and Advocacy. Another Working Group produced a draft "Plan of Action" to be presented to the Final Plenary.

The Evening Plenary of November 12, chaired by feminist-social activist Lalita Ramdas and fishworkers' unionist Tom Kocherry, heard reports from the four Working Groups, besides watching an educational slide show by Chennai-based scientists, simplifying complex facts of nuclear physics, on how the Bomb works, and what makes it an illegitimate weapon of mass destruction.

The closing Plenary at Lady Shri Ram College on November 13 discussed the Plan of Action, adopted a (tentative) Charter for Nuclear Disarmament for Peace and , most important established a Coalition for Nuclear Disarmament and chose its Coordination Committee. The plenary Panel consisted of Prabir Purkayastha, Jaya Velankar, S.K. Biswas, J. Sri Raman, Ilina Sen and Sandeep Pandey, chaired by L. Ramdas.

There were more than 30 interventions and many amendments to the Draft Charter, itself subjected to an intense debate over six months. Some speakers questioned the Draft statement of India's nuclear policy after the first Pokharan test of 1974. Several underlined the importance of broadening the concept of peace.

Many speakers noted the uneven development of the movement in different regions, and underlined the need to strengthen it especially in Uttar Pradesh Bihar, Kerala, the Northeastern states, etc and to address special constituencies like environmentalists, educationists, political leaders, and Dalits.

However, so numerous were the Charter amendments, both substantive and stylistic, that the chair felt they could not be all incorporated into a document to be adopted that very morning. The Plenary broadly accepted that it adopt a one-page summary of the thrust of the Charter, leaving the final document to the Coordination Committee. This summary was accepted (and later released to the press).

The Plenary adopted the Plan of Action (attached below) and resolved to work on a clearing house of information and campaign material, on advocacy and lobbying, besides implementing the specific campaigns outlined in programme.

The Plenary established a Coalition for Nuclear Disarmament and Peace (CNDP) based on the principles contained in the Draft Charter and Plan of Action. Finally, the plenary voted for a 50-member Coordination Committee. This Committee will have a Secretariat of 12 members, no more than five of whom will be from Delhi.

Forty members were proposed by the Nominations Committee (formed in the first Plenary, which had received over 90 names). It selected the 40 on the basis of their contribution to the movement, as well as regional, gender and sectoral balance. The other 10 members will be co-opted later.

The Closing Plenary ended with a vote of thanks to the participants, chairs and speakers, the numerous institutions which helped, the artistes and musicians who performed, and not least, the 50-plus volunteers who looked after the practical arrangements: accommodation, food, transportation, registration etc.

The volunteers included activists of Delhi Science Forum (which acted as the Convention Coordination center), a large number of students from Delhi University, and National Federation of Indian Women.

Springdales School, Lady Shri Ram College, Indian Social Institute and Institute of Social Sciences provided generous support.

The final item on the Convention agenda was the five hour-long Public Event at Mandi House, in which 12 different ensembles/troupes performed.

5.1.1.2 INTERIM CHARTER FOR NUCLEAR DISARMAMENT AND PEACE

The National Convention for Nuclear Disarmament and Peace resolutely opposes nuclear weapons in India, South Asia and Globally. Nuclear weapons are evil and immoral. They divert resources from real needs, promote insecurity, are genocidal, undermine democracy endanger the environment and future generations. This Convention unequivocally condemns India's entry into the Nuclear Weapons Club in 1998, which represents a betrayal of its own past positions. This Convention resolves to bring together largest members of groups, organizations and individuals on a common platform with the following Agenda. To carry forward this Agenda we constitute ourselves into a National Coalition for Nuclear Disarmament and Peace.

a)India

To halt and roll back India's nuclear weapons-related preparations and activity we demand the following measures to be implemented immediately:

- No assembly of nuclear weapons, no induction and deployment of nuclear weapons. No acquisition and development of nuclear weapon-specific delivery systems.
- Advanced research into nuclear weapons to be halted. No explosive testing, sub critical tests, or production or acquisition of weapons using fissile material tritium.

- Complete transparency and independent monitoring of governmental activity in this regard and full public accountability on nuclear development and energy matters.
- Proper compensation and reparation to all victims and their families for damages to health and local environmental by activities related to all aspects (from uranium mining to reactor operation to waste disposal) of the nuclear fuel cycle. Priority must be given to remedial measures for all environmental damage.

b) Other Nuclear Capable and Nuclear Weapons States

- We demand similar immediate measures of nuclear restraint and roll back from Pakistan. Given the tensions and potential for war in West Asia, we demand complete dismantling of Israel's nuclear weapons regime.
- All the N-5 or Nuclear Weapons States (USA, Russia, Britain, France and China,) must immediately de-alert their nuclear weapons systems, make a pledge of No First Use and stop all research into advanced nuclear weapons. No to all efforts to construct an anti-ballistic missile system or missile shield.
- We demand the rapid, systematic and continuous reduction by the N-5 or their nuclear weapons down to zero level through unilateral, bilateral and multilateral commitments and pacts.
- We demand that the Indian Government go back to being among the pacesetters in matters of global nuclear disarmament.
- We want a nuclear weapons free world and we support all genuine efforts in pursuit of this goal. In this effort we commit ourselves to the global nuclear disarmament movement and will strive to strengthen international solidarity in this endeavour.

ACTION PLAN

The Coalition for Nuclear Disarmament and Peace has undertaken to implement over the coming year ending 31st December 2001, the following programme:

1. Establish a central "clearing house" of information to help individuals and groups wanting to get necessary materials (videos, printed matter, experts etc.) to generate popular awareness about nuclear weapons and lack of safety and transparency in the nuclear power sector.
2. Coordinate ongoing efforts towards regional and then national conventions of anti-nuclear weapon activists. Such regional meetings in the North, South, East, West, and Central India to be convened over the next 6 months. There will be separate national conventions for trade unions, scientists, doctors, journalists, artists, lawyers, musicians etc.
3. Will press for institutionalization of "Nuclear Disarmament and Peace Week" from August 4-11 every year in as many schools and colleges as possible.
4. Will actively engage in dialogue at an official level with all political parties and mass organisations as well as with professional associations of all kinds, including industry, religious bodies etc.

5. Undertakes to support organizations in Jharkhand fighting the cause of victims of nuclear radiation in whatever way possible to highlight their plight including official dialogue with the new State government of Jharkhand.
6. Will support the efforts of concerned people in Rajasthan regarding secretive government nuclear-related activity including possible dumping of radioactive wastes in their areas.
7. Help to set up within one year a national federation of radiation victims.
8. Liase with the Pakistan Peace Coalition (PPC) to bring out within a few months a report on Joint Indo-Pakistan civil society initiatives that should be carried out to highlight the dangers posed by nuclearisation of South Asia.
9. Work with the PPC to identify 10 schools and 10 colleges in India and Pakistan respectively, which will be termed 'sister schools' and sister colleges'.
10. Work fraternally with all other genuine nuclear disarmament groups and individuals globally as well as establish links of mutual support with the Indian and South Asian diaspora in Europe, North America and elsewhere.

5.1.2 **Mr. Sarath Fernando, Secretary, Movement for National Land and Agricultural Reform (MONLAR) Sri Lanka**

PEACE AND REGIONAL COOPERATION :

My comments are largely based on and related to the situation and background of the war in Sri Lanka. The essential questions to be addressed are firstly, why have we failed to build a sufficiently strong, independent people's movement against the war and for peace in Sri Lanka, in spite of the efforts made over a long period of nearly 20 years? The second issue that we must address is about possible strategies that should be adopted to develop the widest possible collaboration among people within our own countries and at regional level for peace, against Nuclearisation and against all other forms of suppression. In Sri Lanka there is much evidence to show that a very large number of the people, the unarmed, basically non violent, people of all ethnic communities do not believe that war can bring about peace or ethnic justice and harmony. They have repeatedly expressed this position and belief in various ways at various times.

Although there is a wide spread understanding and appearance that the majority of the Sinhala people have generally been anti-Tamil and have allowed and promoted the war approaches of the governments, there are also the experiences that the Sinhala racist leaderships right down from K.M.P. Rajaratnam, Cyril Mathew, Sinhala Urumaya, the JVPS effort to launch out an anti-Indian struggle to rouse the masses of the majority Sinhala during the Indo-Sri Lanka accord were not sufficiently successful.

The experience of the 1994 elections proved that the people, both the Sinhala and the Tamil supported the position that was taken by Her Excellency Chandrika Bandaranaike and the ruling party at this election clearly saying that they would go for a negotiated settlement to end the war, in spite of the fact that LTTE was as militarily aggressive as they are today. The UNP that was then engaged in a war approach was defeated. The mandate given then was clearly to go for a negotiated settlement. The attempts made to bring together those who were clearly asking for a continuation of the war to defeat the LTTE at the last general elections by organisations such as the Sinhala Urumaya have failed. The mobilisations that were attempted on racist and war supportive grounds have not succeeded in bringing together the large gatherings that they promised to mobilize. After the defeat in the Elephant Pass battle, the government had to utilize legal compulsions to prevent the people from expressing their loss of faith in the war approach, by declaring "state of war" which made it illegal for people to say anything against the war efforts of the state.

The peace movements in Sri Lanka have been working for over 20 years. However, we have totally failed in creating a sufficiently strong independent voice to say that we do not believe in the war. Today the situation is that most of us are silently and passively allowing the government to continue its propaganda about winning the war against terrorism and then working for a political settlement. The reasons for this failure in my view are of two types. Firstly, the peace organisations and efforts have depended and concentrated far too much on the possibilities of negotiations between the two parties in the war. Whenever, there was some attention given to other interventions, it has been about intervention of foreign governments or negotiators such as the Norwegian intervention or British interventions or sometimes possible Indian interventions. The peace movements have never attempted with sufficient confidence to develop the independent, non violent people of Sri Lanka into a third party, independent and separate from the two parties in war, to bring sufficient pressure on the government to begin with and then on the LTTE, to say that "we the people of Sri Lanka do not want and do not believe that war can be a solution". There has not been sufficient effort even on the part of the peace organisations to compel the governments to take a path to win over the confidence of the Tamil and Muslim minorities. The peace movements have not succeeded to

convince the Tamil people particularly that even if the government is not dealing with their aspirations there is a sufficiently strong civil society that could ensure that ethnic justice would be established and sustained.

These failures in my view are due to the fact that the peace efforts are seen as something to be achieved through making proposals to the governments, working out formulae for devolution of power and other forms of negotiations, which can either be taken up or discarded by the government as and when they feel it is advantageous for them for delinking struggles for peace with other struggles of the suffering people for justice. Another major reason for failure is due to the fact that the peace organisations have almost completely disassociated themselves from the other crying issues where people of all races have to fight for justice and fairness. These are the tremendous sufferings caused by the major invasions of international and local business interests. The large numbers of the poor people of all races and ethnic groups have been deprived of their basic rights for economic survival. People have for years been consistently deprived of their right to food and nutrition, livelihoods, right to social welfare in order to provide subsidies and concessions to the rich investors and profit makers. People have lost their rights to security of employment. Small farmers have lost their right to land and the right to market their produce at a worthwhile price and a host of other problems. When the organisations for peace need to win over these people to stand for justice for the rights of other communities, those who invite them for such action should be seen by the affected people as those who are genuinely concerned about justice to the people who are unjustly treated in most other respects.

The situation is totally different since most of the peace organisations in Sri Lanka at least have taken a position in support of other positions of the business communities and of the World Bank, merely because they have stated certain positions in favour of negotiated settlement and about settling the war as early as possible, disregarding the fact that they have attached other conditionalities to their proposals for peace, such as proposals to severely cut down on labour rights, deprive the people of their right to job security and just labour relations etc.

My position, in summary is that both within Sri Lanka and in the region collaboration and cooperation for peace and justice should be far more integrated. A wide and strong movement for peace can only be built if the people suffering the tremendous injustices and threats for survival should be seen as the forces to be mobilized in the fight for overall justice including inter-ethnic justice and peace.

Thank you for the opportunity to express these views

5.1.3. **Mr. Hemachandra Basappa, Documentation & Dissemination Centre for Disarmament Information, India.**

SOUTH ASIAN SECURITY – NUCLEAR DISARMAMENT

What is the South Asia we have in mind for the future? A dynamic one with the possibility of providing leadership to the rest of the world or one where mutual suspicious and our internal political situations will consume many more years of our people's attention and time?

Years ago, Mahatma Gandhi described India thus: “We are inheritors of a rural civilization. The vastness of our country, the vastness of the population, the situation and the climate of the country have in my opinion, been destined for a rural civilization. Its defects are well known, but not one of them is irremediable. To uproot it and substitute for it an urban civilization seems to me an impossibility, unless we are prepared by some drastic means to reduce the population from three hundred million to three or say even thirty. I can therefore suggest remedies on the assumption that we must perpetuate the present rural civilization and endeavour to rid it of its acknowledged defects.” “Young India 9/11/1929”.

In the recent past India and Pakistan have tested Nuclear weapons. Have these tests given them any additional security? Do they feel safer than before? Before whatever triggered the respective governments when they embarked on their nuclear tests? Did the industrialised developed nations, acknowledge our two nations as Nuclear Weapons States? Even if they had, what would it have meant to the millions of our people who are not confident of a secure tomorrow, who have no safe drinking water, adequate medical services, huge unemployment problems, where basic education is lacking for the majority of the children, not to speak about many other basic needs? Do we have our security perceptions right? Have these nuclear tests made us or our region any safer? What about the huge expenditures that both the governments incurred for their ego trips? It is the continued diversion of scarce resources away from basic development that is the main threat that this region faces. Should we always think of solving any problem or differences through a military solution? Or hasn't the time come for all us to think differently and believe in ourselves and act differently? Do we really face any major or serious threat from anyone within this region militarily ? Or through these weapons testing and the continued build up of weapons systems, especially after the Kargil Episode, has made us safer? What about India and Pakistan, through their nuclear weapons tests, having become a threat to all other countries in the region?

Annually, we have hundreds of thousands of people who are displaced due to floods, drought and through so-called developmental projects. Shouldn't we see to their safely and basic security?

In the mid '80s, the Swedish Peace Initiative - THE GREAT PEACE JOURNEY, under the leadership of the late Inga Thorsson, had visited the countries of South Asia, where the leaders were asked five questions and to which all the leaders had said “yes”. I shall refer to three of those questions here:

1. Are you willing to take steps to ensure that the development, possession, storage and employment of mass destruction weapons including nuclear weapons. which threatens to destroy the very conditions necessary for life on this earth, are forbidden in your country - if all other members of the UN undertake to do the same?
2. Are you willing to work for a distribution of the earth's resources so that the fundamental necessities of human life, such as clean water. food, elementary healthcare and education are available to all people throughout the world?

3. Are you willing to ensure that any conflicts, in which your country may be involved in the future, will be settled by peaceful means of the kind specified in Article 33 of the UN Charter, and not by the use or threat of force?

What happened to these commitments? Or are there some unseen and stronger forces at play that deliberately create situations whereby the leaders in power dream of a military response to face a challenge, whatever it be?

The other major initiative was the World Court Project, an international citizen's initiative to secure an "Advisory Opinion" from the International Court of Justice on the legal status of nuclear weapons. Out of the 27 countries that made a submission before the World Court, India was one of them which said, "the use of nuclear weapons would be illegal."

Why did the Government of India abandon this position and test nuclear weapons in '98? What had changed the situation that they took this drastic step? What was the sudden security threat they faced? Or was it an ego trip of the leaders to overcome their own inferiority complex? And hoping that the new status they assigned on themselves as (a Nuclear Weapons State) would overcome this status?

We need to think differently and believe in existing Institutions and strengthen them. We have the South Asian Association for Regional Cooperation (SAARC), whose preamble reads thus: "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 neighborly relations and meaningful co-operation among the member states which are bound by ties of history and culture". Our nations need to give a higher priority to the issues before SAARC. They should evolve larger movements of people and greater direct trade between each other. The agreement of South Asian Free Trade Agreement, should be seriously accepted, in spite of large differences of economic development and implemented in the spirit of the SAARC Charter, for the good of all in our Region.

There is also the threat to our Environment. This has been aptly summed up by Jacklyn Cook in the introduction of the jointly edited book: 'From Defence to Development - Redeploying Military Resources in South Africa- " Environmental damage is not limited to episodes of war and armed conflict, but is implicit in militarization, the process whereby resources are mobilized for war. Military activities, even in peacetime, affect the environment. Such activity include the production and testing of weapons, training and exercises, the establishment of military bases and institutions, the maintenance of a state of alert and combat readiness, and accidents of various kinds (UN 1991). Furthermore, military activities consume resources urgently needed for economic development and environmental protection. For example, approximately 20 per cent of the World's scientists are engaged in military research to the detriment of research into environmental research such as alternate energy resources and conservation. High defense expenditures mean that less is available for safeguarding our deteriorating environment."

I shall quote two remarkable pieces from the Report of the Independent South Asian Commission on Poverty: Meeting the Challenge (Nov 1992), which sums up beautifully about all of us in this Region:

" The strategic thrust for poverty alleviation would have to be consistent with, and indeed should help redirect, the overall pattern of development and the macro-economic strategy of growth in the Region, in order to enable the poor to enjoy the benefits of economic growth

in the short run without jeopardizing these benefits in the long run in particular, in order to be sustainable."

The second quote is as thus: "South Asian culture is rooted in 5000 years of history. Its ancient values are still deeply ingrained in the customs, practices and institutions. They cannot be eroded by the current epidemics of intolerance, greed, waste, ostentation and violence in the Region, because they have stood the test of time. South Asia needs to rediscover its civilizational rhythm, tolerance for and accommodation of new spiritual values and new mechanisms of social organizations and economic production, compassion in the widest sense, sharing, caring, trust and mutual respect, simplicity and even austerity of life style have all informed this pluralistic civilization. Similarly, the culture contains important insights into the need for a sustainable people to nature relationship as reflected in traditional practices of land use, forest and water management and the use of renewable resources."

Today, our Region faces far more serious threats and challenges from the various agreements of the World Trade Organization many of whose terms and conditions have not been fully understood or interpreted in terms of their long term consequences. If our focus remains on that political border between our nations and arming ourselves to meet these imagined challenges, we may gain or lose a few inches of land, but hundreds and millions of our peoples will be deprived of basic needs.

There are initiatives, like the Pakistan India Peoples Forum for Peace and Democracy, which has a major ongoing working group on the issue of Demilitarization and De-nuclearization. At their Fifth Convention, I had had the honour to chair this working group. I shall mention just one of the recommendations of this working group: Both countries should show their commitments and make long term strategies to gradually declare South Asia a Nuclear Free Zone and simultaneously and collectively work for global disarmament.

I am given to understand that the President of the Indian Section of this Forum Admiral Ramdas will be at this Peoples Summit. I do believe that we should request the Admiral to speak briefly about this initiative.

In conclusion, I believe that once the priority changes to a people focused approach, we shall not need any kind of weapon to solve our problems. I strongly recommend that this Peoples Summit, maybe with the help of the South Asia Partnership, initiate a SAARC Peoples effort to reduce tensions in the region. I am prepared to give sufficient time and to undertake this responsibility and work with other movements.

5.1.4 Mr. Jehan Perera, Media Director, National Peace Council of Sri Lanka, Sri Lanka.
POLITICAL AND CIVIL SOCIETY APPROACHES TO ENDING THE CIVIL WAR IN SRI LANKA

The war that has steadily escalated between the Sri Lankan state and the Liberation Tigers of Tamil Eelam has now gone on for over 17 years causing around 60,000 deaths and incalculable damage to personal and public property. Well over half a million Sri Lankans have left the country to live abroad.

As Sri Lanka is a polarised and fragmented society with cleavages at various levels including the economic, social, religious and political, this has led to a lack of communication and acute mistrust between parties on different sides of the various divides. Non Governmental Organisations in particular have set themselves the task of creating cross cutting links between these groups while advocating understanding, tolerance and inclusion to generate bridging social capital.

In the 1970s, although a relatively small and geo-politically insignificant country, Sri Lanka received a considerable degree of attention from international economists. It was a country that was much studied in order to understand how social welfare could be generated from very limited economic resources. With a low income, Sri Lanka was able to provide a quality of life to its people that countries with higher incomes failed to provide. Today, Sri Lanka is being studied as a country trapped in internal conflict that the economists have to deal with, if their economic plans are to work at all. A recent study of the cost of war in Sri Lanka undertaken by the Marga Institute has shown that at a conservative estimate incomes could have been 43 percent higher if there had been no civil war.

The experience of Sri Lanka in the past two decades demonstrates that violent conflict within a state weakens its social fabric. It divides the population by undermining personal and communal group trust and destroys the norms and values that underlie cooperation. This damage to a society's "social capital" impedes economic growth prospects. Even if other forms of capital are replenished, economic development will be hindered unless social bonds and social relationships are restored. In this context, there is a growing recognition that political instability and violent conflict are the biggest deterrents to economic investments that generate economic growth and prosperity.

Sri Lanka has a plural society of several different ethnic communities numbering 18 million. The Sinhalese form the main ethnic group with 74 percent of the population. The majority of the Sinhalese are Buddhists by religion and are mainly concentrated in the south, west and central parts of the country. The Sri Lanka Tamils with 12 percent of the population form the next major ethnic group. The north and east of the island are predominantly Sri Lanka-Tamil in composition. The Muslims form the third major ethnic group with 8 percent of the population with a concentration in the east. The Estate Tamils, who are of recent Indian origins, form the fourth major community with about 5 percent of the population. They live in the central hills of the country and have not been involved in the separatist conflict. Most of the Tamils are Hindu by religion. While a minority of both Sinhalese and Tamils are Christian by religion and together account for about 7 percent of the population, they are not considered to be a separate ethnic group.

a) Political Failures

Sri Lanka has had a relatively long tradition of modern democracy, stretching back to the British colonial period. The country was one of the first countries in the world to enjoy universal suffrage in 1931. But the inability of the political elites belonging to the different ethnic communities to share power equitably among themselves led to a series of broken agreements and to acute mistrust

between the communities. The difficulty of protecting minority interests in a parliamentary system in which majority-minority relations are strained is exemplified by Sri Lanka's modern political history.

Several efforts made by government leaders to work out a solution with the Tamil political leaderships failed due to the inability of the government leadership to obtain the backing of their own party let alone the opposition. The most outstanding instance was the agreement reached in 1957 between the Prime Minister at that time, S.W.R.D. Bandaranaike (father of the present President) and the leader to the largest Tamil party. The Prime Minister unilaterally abrogated the agreement when it proved generally unpopular in the country. Buddhist monks even demonstrated in numbers against the agreement which gave autonomy to the Tamil areas.

A similar agreement arrived at in 1965 by Prime Minister Dudley Senanayake suffered the same fate, but this time due strong internal divisions within the ruling party itself. In each of these instances, party political rivalries and cleavages added to the opposition to the conflict resolution process. The political parties in the opposition were able to mobilise the primordial fears of the population, and thereby the voters. The fear of the physical division of the country on ethnic lines, and the destruction of the nation, were sentiments that were powerfully played upon to create a reform-resistant state.

The frame of the nation-state that exists in all South Asian countries today is one that was received from the departing British power. Fifty years later, that frame is no longer viable, for the situation within the country has changed. The different ethnic communities living within the state have developed a strong sense of their identities, which do not go along with the old state structure. At an earlier point of time that sense of identity, and of being bothered by the difference, would have been confined to the elite levels only. But today it is evident that the sense of a distinct ethnic identity permeates all levels of society. The problem lies in the nature of the state that was imposed on South Asian societies when they received independence fifty years ago. If a state of a different nature had been provided, perhaps the rivalries between the elites of the different communities would not have become ethnic conflicts involving all levels of society. The Soulbury constitution established a unitary state on the Westminster model for Sri Lanka on its independence, the basic feature being that it gave final decision making power to a single parliament in which sovereignty was vested.

b) Setting Up A Framework

However, today after 17 years of costly and brutal internal warfare, Sri Lanka is now possibly at the very doorstep of a peace process that could end in success. Sri Lanka is on the verge of yet another peace process. The offer of unconditional peace talks made by LTTE leader Velupillai Prabhakaran in his annual Heroes Day speech this year on November 27 came as a surprise. The issue of pre-conditions prior to peace talks was previously seen as a major obstacle to the resumption of peace talks. The LTTE leader's offer came at a time when the international community was showing a great deal of interest in promoting the peace process. The role of the foreign facilitators has become very important at this stage in the breaking of deadlocks that block the peace process.

The prospects for an end to the bitter hostilities between the government and LTTE have improved remarkably due to well thought out foreign interventions. What has been most significant in these interventions has been the clear and unequivocal laying down of the parameters of a negotiated political solution. On the one hand, it is a united and undivided Sri Lanka. On the other hand, it is a satisfying of Tamil aspirations.

One of the main points emphasised has been the inability of the government and LTTE to secure a decisive military victory over the other. However, the real breakthrough that has taken place is the

setting up of the parameters within which a negotiated political solution must take place. Ever since the TULF won its parliamentary mandate for a separate state at the general election of 1977, the question of an independent Tamil state has been a question mark over the negotiation process.

At the Thimpu talks of 1985, the four principles enunciated by the Tamil parties concerning the status of Tamils as a nationality entitled to self determination in a traditional homeland of their own were seen in the light of a separate state. At that time they were, and today they continue to be, rejected by the government and mainstream Sinhalese-dominated political parties in the country.

By putting the bogey of a separate state out of the negotiating framework, it is likely that the negotiating process can go forward. The greater part of the credit for this must go to the Norwegian peace envoys, who first took the bull by the horns. In their meeting with the LTTE, the Norwegian delegation took a decisive step in setting the parameters of a negotiated political solution. They stated that their intervention would be on the basis that the solution should be within the framework of a united Sri Lanka. They also stated that Tamil aspirations should be met. It is important to note that neither the LTTE nor the government decided to reject these Norwegian-set parameters.

Aspirations are liable to be limitless, whether of individuals or of communities of people. But the framework of a united Sri Lanka sets the limit on Tamil aspirations. The Norwegians have taken a risk in being so clear about their position. Of course they have also made it clear that the position they have put forward is not theirs alone. It is the common position of the international community.

Soon after the Norwegian foray into the Wannu jungles, and meeting with the LTTE leadership, the European Union issued a statement backing the Norwegian peace initiative. The EU statement is evidence that the Norwegians are not going to be isolated in their peace making effort.

Sinhalese nationalists have openly challenged the Norwegians. The Marxist-inspired JVP has been harshly critical of the Norwegian peace initiative. The extremist Sihala Urumaya has demonstrated in front of the Norwegian embassy and burnt effigies of their negotiators. The core concern of these protests is that the Norwegians are pro-LTTE and part of a Christian conspiracy.

But it is not only the Sinhalese nationalists who have found the Norwegian peace initiative to be objectionable. Tamil nationalists too have been unhappy though they have been less open in expressing themselves. This unhappiness stems from the extreme nature of their aspirations which includes the ideal of an independent state of disproportionate size carved out of the island.

The Norwegian declaration of the parameters within which a negotiated settlement should take place has been a considerable blow to Tamil nationalists. They would have preferred a bargaining position in which an independent Tamil state was also on the table. This would have enabled greater bargaining leverage at the least. The ongoing military battles in the Jaffna peninsula point to the struggle for a better bargaining position through bloodshed rather than through a reasoned conception of justice.

Undoubtedly both parameters of a negotiated solution are complex ones. A united Sri Lanka would not only mean no passports and visas for travel within the country. It would also mean a shared democracy and value system. Satisfying Tamil aspirations would mean shared political power and elevating the Tamil community to enjoy “parity of esteem” in the country.

All this will have to be negotiated by parties who neither trust nor respect each other at the present time. Foreign third party assistance will be absolutely necessary in moving this process forward. It may not be one country that can do all of this, but a combination of countries, and perhaps they will play different roles at different stages of the negotiating process.

On the other hand, disregarding peace talks and possible legal consequences, Sinhalese and Tamil nationalists living outside the battle zones of the north-east may be looking forward expectantly for a resumption of fighting that is favourable to their side. What they desire is military victory and the bargaining strength that accompanies it.

It is crucially important at this time is to get the peace process started without further delay and loss of lives and property. Going by the experience of previous peace processes, both locally and internationally, contradictory rhetoric and actions are to be expected at the outset of negotiations. They manifest the mistrust and suspicions of the two sides that can only be lessened through the confidence-building that accompanies face to face dialogue and peace talks.

c) Political Programme

One of the key factors in the Sri Lankan ethnic conflict has been the unwillingness of the major political parties to enter into a bipartisan consensus on the solution to the ethnic conflict. This has been the case since the 1957 Bandaranaike- Chelvanayakam Pact, the 1987 Indo-Lanka Peace Accord and coming right down to the devolution package of today. The question that civic organisations have been asking themselves is how to build such a consensus.

An often antagonistic and highly confrontational electoral politics pervades the Sri Lankan system of governance. A hallmark of attempts at conflict resolution have been the lack of bipartisan consensus among the two main Sinhalese- dominated parties in the South coupled with a unilateralist approach to the minorities. Political will has often been channelled into unilateralist attempts rather than giving leadership for the formation of a national agenda, while processes that were mediated in an attempt to build a southern consensus on the national issue became politicised and exploited for narrow political gain. Given this scenario it was clear that the objective of civil society intervention would be to help catalyse political will and consensus for negotiations.

To give an example of such an intervention, since late 1995 the National Peace Council has worked cooperatively with politicians. Its main programme with politicians has been to take groups of upto 22 of them from different political parties to foreign countries that are also experiencing conflict, to study how those countries deal with their conflicts. Since 1996, such study tours for politicians, both MPs and local level ones, have been held with regard to South Africa, Northern Ireland, Philippines and Bangladesh.

What has been found to be most useful in these programmes is not only the learning about negotiation and peace processes. For many of the politicians, these joint study tours abroad offer them the first time ever to spend time with each other and get to know each other as persons. The tours provided them with the opportunity to build personal relationship across ethnic and political divides and has provided the NPC with the opportunity to build relationships of trust and friendship with these politicians. This has enabled the NPC to make a critical appraisal of their political programmes and policies without being misunderstood as being partisan one way or the other.

A feature of these study tours is that they are organised informally, and therefore devoid of protocol. This has helped in generating new thinking and new relationships which did not end with each visit abroad. Some of the MPs have become resource persons in grassroots level workshops on conflict resolution that we have conducted in different districts. There are two important principles that the NPC has followed in this work. The first is to always make sure that politicians on both sides of the divide are represented in any work that is done with politicians. Given the highly polarised nature of Sri Lankan politics, any indication that a civic organisation might be politically partisan could be fatal to its efforts to influence one or the other side.

Early in its engagement with key political forces in Sri Lanka the NPC realized that its advocacy among the political elites had to be approached through the process of political empowerment. This approach effectively addressed the apparent contradiction of playing a peace or anti-war advocacy and conflict resolution role at one and the same time. In practical terms it has meant that while carrying out public, mass campaigns. These have sought to raise awareness among and give public expression to the peoples desire for peace by provoking without antagonising but at the same time disarming. The NPC sought to assist in risk management among political elites by demonstrating that peaceful Change through negotiations was both possible and preferable while being complementary if not helpful to their own political projects.

This work with politicians has taken place at both the local as well as national level since December 1995. Programmes for Parliamentarians have been held in Crete (sharing experiences on South Africa), Northern Ireland and Philippines and the Chittagong Hill Tracts in Bangladesh. This programme has also been taken to the local level on a similar bipartisan basis.

Central to the role of successful critical collaboration has been the ability to facilitate a process among politicians, a process which in a microcosm has been able to demonstrate that which civil society claims to be preferable is also possible. In demonstrating this capability, the programme has maintained its independence from petty politics, relevance to the political and peace process and credibility within the political establishment and among the general public.

d) Rights Or Peace?

In one such bipartisan activity, the NPC took a group of local level Sinhalese politicians from the Matara district to meet with their Tamil counterparts in the Batticaloa district. This encounter revealed one of the main problems we have to address in the course of our peace work-- the different notions of peace and what comes first. At the very outset of the first meeting one of the Sinhalese, in a spirit of goodwill, told a Tamil counterpart that they had come to talk peace. The response was a biting one-- "Before we talk peace, let us talk about our rights." This dichotomy suggests that Sinhalese and Tamil will be having different expectations about the peace process. The Sinhalese will focus on political compromises for peace. The Tamils will focus on normalisation of their lives and equal rights first.

The dichotomy also has another serious implication for civil society unity. It is noticeable that in the peace oriented civic activity that takes place in the country, there is only a small representation of Tamils. This is both at the civic decision making and mass levels. It would be easy to attribute this Tamil absence to fear of either the LTTE or the security forces or of both. But there is also another reason. It is only people who are secure and whose basic rights are being met who will be able to accept and fight for political compromise.

However, an increasingly self-critical attitude amongst the larger Sinhalese population provides a secure foundation for conflict resolution. Unless there is a spirit of self-criticism it is impossible to negotiate any sort of solution. Negotiations are only possible between opponents who are aware that they do not possess the fulness of justice and truth in themselves. In the absence of political leadership and willingness to take risks that could solve problems it becomes incumbent on the other sectors of society to fill in the leadership vacuum. This has been so especially in the case of the protracted ethnic conflict, which has past its 17th year. In any war or major conflict, those working for peace and reconciliation are not going to be the only actors. Nationalist feelings, intolerance and hatred against the other side are likely to be roused in the process. Peripheral actors too join this process of rousing nationalism. Some are less successful than others.

But what is noticeable in peace oriented civic activity is the relative absence, or small representation, of Tamils in them. This is both at the level of those who decide on those events and those who attend those events. This is not to say that there are no Tamils at all. Or that the Tamils are deliberately boycotting those events. Or even that they are afraid, although there is considerable evidence to back that observation. There appears to be something deeper at work. There is, it seems, a deep divide that keeps the Tamils away from peace oriented events even in the south.

Of course, in the north-east it would be easy to say that the fear of getting into trouble for engaging in independent-minded peace work will be uppermost in the minds of Tamil people. In that part of the country there is no democracy at all. There is only rule by men and women with arms. It is unlikely that those who wield arms, and are fighting for their very lives, will be very tolerant of civilian groups and peace lobbies working independently of them. In fact, on an occasion that a peace group from the south went to the north-east to organise a mass peace activity, they were told to stay clear in no uncertain terms. The LTTE very clearly told them that they could engage in development and relief work, but not in peace work.

Perhaps there is something missing in the peace movement in the south which keeps the Tamils away (apart from the omnipresent reluctance to tempt fate with the LTTE). It seems that the peace movement has been unable to be relevant to their needs, even in the south of the country, and has been unable to excite the imagination of the Tamil people. It would appear that they are unwilling to take a stand for a type of peace that would entrench the status quo in which they feel treated like second class citizens.

Conventionally speaking a peace organisation would have the following three aspects to it. First, it would try to conscientise and increase the awareness among the people with whom it works about the feelings, aspirations and realities on the other side of the divide. With the difficulties of travel to and from the north-east, and the media censorship which is both military-imposed and self-imposed, people are more or less left in the dark about the other side. The lack of knowledge is an important barrier for an organisation committed to peace to overcome. The second aspect of peace work would be to win the trust and confidence of the people with whom one works with, and having done so, to urge them to be prepared for compromise and mutual accommodation in the interests of peace. There is a price to be paid for peace. The price of peace may be paid in terms of territory, or of pride or giving up one's dearly held prejudices and beliefs. The third aspect of peace work would, obviously enough, be to urge peace talks between the government and LTTE, as they are the two main combatants. Unless these two parties agree, there can be no peace or end to war.

However, if we move across the divide, we will not find a similar acceptance of these three criteria that has been sketched out above as being the three aspects of peace work. Certainly, we would find a wholehearted and very strong acceptance of the need for government-LTTE peace talks. But we would not find a similar positive response to the first two criteria. The question is why.

Most southern-based peace organisations would uphold the three criteria for a peace organisation, though some may be less upfront on one or more of them. But the fact is when they do uphold the criteria of awareness creation and call for compromise, they do so from the position of enjoying basic security as Sinhalese, and of being people whose basic rights are met. It is from this secure position that they advocate compromise and showing the other side's point of view to their constituents.

But for Tamils, even for those in the south, the situation is entirely different. They are not secure, and for large numbers of them, their basic rights are not met. Can people whose basic rights are not being met advocate compromise and see the other side's point of view? Those who feel that their basic rights are not met cannot be expected to advocate compromise. They must first achieve their basic rights before they can be willing to compromise and see the other side's point of view. In

particular, after experiencing a long period of bitter struggle and loss, they would not wish to agitate for a peace that would restore the earlier status quo that caused the militancy in the first place.

This may explain the dichotomy between peace organisations in the south, which are Sinhalese-dominated on the one hand, and civic organisations composed of Tamils such as the Action Group of Tamils in Colombo (AGOTIC), on the other. The first calls for peace and compromise; the second calls for basic rights and correction of wrongs before it calls for peace and compromise. As stated earlier Sinhalese and Tamil will be having different expectations about the peace process. The Sinhalese will focus on political compromises for peace. The Tamils will focus on normalisation of their lives and equal rights first.

The mistrust arising from this crucial difference can, and does, tend to solidify social capital into an instrument of bonding, exclusion and ultimately violent conflict in which development goals cannot be met. Therefore it is clear that peace building in Sri Lanka calls for the generation of more “bridging” social capital for healing and reconciliation. Without an understanding of the dissimilar perceptions and sensitivities of the communities caught in conflict, any peace process is likely to get derailed on the diverging tracks of differing expectations and the mistrust this generates.

End Notes

1 Marga Institute, *The Cost of the War in Sri Lanka*, Colombo (1999)

2 A. Jeyaratnam Wilson, S.J.V. Chelvanayakam and the Crisis of Sri Lankan Tamil Nationalism, 1947-1977, *A Political Biography*, C Hurst & Co. London (1994) p. 105

3 *People Building Peace*, “Waging peace against war,” European Centre for Conflict Prevention, Utrecht, Netherlands (1999), pp. 170 174

The European Union is a model for our efforts towards South Asian regional unification. We need not invent a new wheel. We can learn from the achievements and mistakes of the European Union. First, I will dwell on the need for Regional Unification and then on how the European Union can be a model.

a) Rationale for Unification

Most of what constitutes South Asia today was once a large **Continent**. The rationale for the division between India and Pakistan was that the Muslims will inhabit Pakistan and the Hindus, India. This very criteria is anti-federalist in principle as Federalism advocates structures to unite multi-plural societies. In reality there are very few examples in the world of absolutely homogenous communities. Even if one takes the criteria seriously, it has not worked and will never work. There are more Muslims living in India than the population of Pakistan and Bangladesh put together. Still both India and Pakistan are at loggerheads, both following aggressive expansion policies and increasing tension by producing nuclear arsenals and conflicts across the border by fermenting patriotism. During the recent Indo-Pak Kargil conflict, if an Indian soldier was killed in action on the Pakistani side, he was called an intruder and in India, he is called a hero. The same thing applies for the Pakistani soldier. Therefore, for the peace of the pacific people on both sides who were one community, it is essential to have regional unification.

The enemy phobia in the region is enhanced to increase **military budgets**. The military establishment is a powerful lobby influencing policy. In Bangladesh and Sri Lanka, the military budget is as high as 45%. India and Pakistan spend/siphon a large portion of their GNP in the non-plan expenditure and the expenditure on nuclear **research & development** is not even within the purview of Parliament and the Auditor General of India. This is sheer wastage of resources which when effectively used, could have eliminated poverty, lack of primary health and education, from the South Asian region. It is estimated that the cost of one tank can build 2000 schools across the country. The issue therefore, as you can see, is between guns and butter! It is a violation of human rights if a government is unable to provide safe drinking water to millions of people but can spend billions in “agni” nuclear missiles. Hence regional unification is as essential as **economic necessity**.

Further, in the region, India assumes presently a big-brother role. There are those who argue that in such a hegemony, regional unification is not possible. India and Pakistan both consider nuclear ambitions as minimum deterrence. The fact is, we in South Asia are more insecure than before but our governments say that nuclear weapons contribute to create security in South Asia.

The region is rich with resources. It is not uncommon to find that while one area is experiencing floods, another area not far away, will suffer from drought. The heavy rains in the Himalayas in India will flood Bangladesh regularly every November. At least on this score, the SAARC has made considerable progress. There is the **Barraka River Accord** between India, Bangladesh and Nepal. Natural resources like rivers cannot be controlled by national sovereignty and they have no borders. Similarly, nuclear disasters will affect the whole of the region and the globe as well. Therefore, for global security the South Asian region should follow the path of European Union.

South Asia, the oldest civilization in the world, is on the way to economic collapse basically due to increasing foreign **debt** because of excessive imports. The principle of **subsidiarity** therefore, assumes significance. Pakistan, India and the rest can help each others' economies to grow. For example, Bangladesh, seeks technical assistance from outside the region which is expensive whereas other countries in the region could help. Presently, there exist trade barriers and also barriers to the free movement of the people. We share problem such as discrimination of the girl child and child labour, etc. The girl trafficking from Nepal into India and child labour from Bangladesh could be prevented if the people in the region take stock of the situation as a collective responsibility and attempt to solve local problems using the federalist approach. Therefore, regional unification will solve basic problems facing the people of the region.

b) The EU Experience

The European Union is a forerunner. Since the 1960s, when the efforts towards European Union started, there have not been any major military **conflicts** in the region. The stronger **economic integration** stabilized weaker economies within the region. The European experience inspires us to include the excluded. There are a lot of refugees within the region who are stateless. e.g. the Tibetans, the Chakma tribals, the Afghans and Sri Lankan Tamils. **The federal structure** therefore, solves problems of mutual concern. At the same time efforts should continue to **democratize the UN**. The UNFPA is an important step in this direction. We should also influence the democratic process in Bhutan and Burma. The Civil Society Organization within the region does not run parallel governments. Since they are powerful they should influence policy framework for the region. Serious consideration will be given to social and cultural impediments to political unification. Similarly, social factors that contribute to this political unification will be identified and strengthened. Care should, however, be taken to avoid a situation such as that which the European Union may face if it becomes an independent Union. Regional unification should be seen as part of a federal structure. If there is distinct European patriotism, Asian and American patriotism, global problems cannot be solved on a federal basis. The EU should also move away from a common European security to that of global security following the principle of federalism. The EU should be more committed to strengthen UN Peace Keeping Force and not NATO. The UN is the first step towards federal World Government.

c) Towards A South Asian Union

Several initiatives towards global peace were taken in the South Asian region. Sri Lanka was a strong proponent of the **Law of the Sea** and Nepal wanted the Indian ocean to be a **Zone of Peace**. India and Indira Gandhi played a crucial role in the non-aligned movement and the group of 77. These initiatives should take the region towards greater stakes of global security rather than a mere regional security. **Global peace and harmony is our common responsibility**. There already exists co-operation among the governmental bodies in India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan and Maldives in forming the **South Asian Association for Regional Co-operation**. Initially, they evolved common programmes on cultural exchange, tourism, art and music. NGOs such as AYC influenced them to take up issues like those of the girl child.

They have also addressed issues of child labour, environment and terrorism. Since this government mechanism already exists, it has to be taken forward towards a dream of a federal structure. A large sector of intellectuals is needed to support the South Asian Federalists. South Asia needs to set up a Political Union first before even thinking of the rupee-dollar. Systems and federal structures need to be created.

The word **democracy is not new to the region**. The region has the largest proportion of population in the world, and elements of democracy have been practiced among the tribal societies for more than 5000 years. We strongly believe that the European Union, South Asian Union, South American Union and African Union together will contribute to strengthen a **World Federal Structure** based on **democracy, justice, development and peace**.

5.1.6. PEACE BUILDING PROCESS INITIATED BY SAP-NEPAL

Once a peaceful country, Nepal has begun to be identified as a country of terrorism and violence. The government has been trying to suppress the insurgency through the police force. However, it has also been attempting to initiate dialogues with Maoist leaders for negotiations. Nevertheless, it has not been successful in either effort. It does not seem possible to suppress the insurgency due to limited financial resources and a small police force. Therefore, peace should be brought about not through force but through political strategies and dialogues with the Maoist party. The civil society can play an effective intermediary role in the creation of a congenial environment for the peace building process. All the development actors of the nation: the civil society, the state and the market can be brought to a common forum for interactive dialogues. These dialogues should be initiated from the local (district) level to the regional and national level. SAP-Nepal as a member of the Civil Society has also initiated different processes for building a peaceful environment in the country.

A) DISTRICT LEVEL PROCESS

District Development Forums (DDF) of SAP-N partner organizations have been created in 25 districts where there have been different interventions for social, economic and political empowerment of the people. These forums evolve different programs in order to raise consciousness on development/ governance issues and to find solutions. This is the right time to use these forums for initiating advocacy dialogues between and among the civil Society, the State and the market to enhance the peace-building process. Therefore, 25 district level interactive dialogue programs have been planned and will be coordinated by the existing District Development Forums (DDF). Fifteen district level workshops have been organized up to the present. During the workshop papers were presented that were prepared on the basis of case studies of real incidents of the Maoist movement. Each workshop had 25-50 participants including members of NGOs, journalists, academicians, political leaders, decision makers, etc. In almost all the interactive programs, the conclusion was that negotiations between the government and the Maoist movement were essential to end this insurgency. The members of the DDF have also developed strategy papers by consolidating the papers, thoughts and suggestions presented in the workshops.

B) REGIONAL AND NATIONAL LEVEL PROCESS

SAP –Nepal will also facilitate regional and national workshops that will help to link local issues to macro level issues and thereby influence policy making in favor of the people affected. These workshops will also have two types of papers- a working paper on the existing situation from different perspectives and a consolidated strategy paper. A national level workshop has been planned for January 31- February 1, 2001 in Kathmandu. As at the district level the participants will cover all

the three development sectors. It has been realized that different preparatory workshops are essential to make a national event successful. Therefore, three preparatory meetings have already been organized by SAP-Nepal.

c) Consultation Meeting on Peace Building Process

The first consultation meeting on Peace Building Process was organized on November 18, 2000 at Dhulikhel. There were 20 participants representing professionals of different disciplines, human rights activists, senior political leaders, representatives from political parties, etc. Most of the participants agreed that the Maoist movement was a political issue caused by various social, political and economic problems. Political instability and inadequate accountability of political leaders towards the citizens were regarded as the main reasons behind the frustration of the people that led them to violence. It was also opined that civil society organizations should pressurize both the parties i.e the Maoist and the government to stop human rights violations. It was suggested that the insurgency cannot be stopped by the use of power. Instead, there should be strategic moves of both the citizens and the authorities. The conclusion of the workshop was that negotiations between both the parties was the only solution, and that the Civil Society can play an effective role in developing a congenial environment for these negotiations.

d) Consultation Meeting with Professionals for Peace Building

Numerous papers will be presented during the forth coming National Workshop. These papers will be prepared by professionals from different perspectives such as human rights, social culture, politics, economics, civil society, etc. Therefore, a Consultation meeting was organized on November 30, 2000 in Kathmandu to discuss various aspects of the Maoist issue and the strategies of papers and articles to be presented. Participating were 21 identified professionals from above mentioned fields. During the workshop, different reasons for the emergence of the Maoist movement were revealed along with the personal experiences of the speakers. Most of the participants considered that it is a political issue that has arisen due to an ineffective governance system. It was also opined that women and children are highly affected by the insurgency so that a joint effort of the Civil Society is essential to minimize the negative impacts of the insurgency. The workshop was highly useful in developing a common understanding amongst the experts on the different aspects of the issue.

e) Interaction on Role of Civil Society Organizations in Peace

An interaction program was organized by SAP-Nepal on the "Role of Civil Society Organizations in Peace Building Process" on December 3, 2000. Twenty-nine members of different NGOs participated in it. Most of the participants stated that political parties were not sincerely working to solve the Maoist problem. Instead, they were using the insurgency for their own benefits and furthering their political ambition. It was also stated that Civil Society Organizations can play an active role in initiating negotiations and implementing need based development programs in affected areas.

In most of the programs conducted so far, it has been declared that peace is the main need of Nepalese people and it should be taken into consideration by the government and all those who violate the peace. In this regard, SAP-Nepal along with other CSOs is making an effort to create a favorable environment to initiate talks between these two parties and develop strategies to prevent such insurgencies in the future. We hope that we will get support from all the people who care for a peaceful world.



CO-ORDINATOR : MR. B.D. GHOSH
RAPPORTEUR: MS. NAZEERA SADHIKEEN

Discussion centered on the prevailing nature of governance at local levels in the region. One comment was that there were no strong laws in south Asian countries and that the ability of private individuals to file complaints is limited. The dominance of political power at local level prevailed in all South Asian countries. Further it was commented that overcentralisation of power and bureaucracy created injustice: special emphasis was made regarding the position of women in the region who were subject to much discrimination. The role of media was discussed and delays in administration of justice pointed out. This created conflict and incapacity for the individual. In such a context a suggestion was made that the South Asia Partnership should be a regional forum that can make representations to the United Nations Organisation.

The following presentations were made during the commission sittings:

5.2.1. Ms. Rokeya Kabir, Executive Director, Nari Progati Sangha (BNPS), Bangladesh
GOVERNANCE AT THE LOCAL LEVEL IN BANGLADESH

a) Introduction:

Bangladesh emerged as a nation state through the War of Independence in 1971. The country has a long history of being under colonial and autocratic regimes. After 29 years of independence, the people of the country are still struggling for democracy and social justice. Though establishment of democracy was a pledge of the War of Independence, a responsive system of government is yet to be installed in the state. A positive change was observed in the last few years in the political arena. The present government has reformed some laws and policies that include reform in the local government system. A Commission was formed to suggest the change in laws and policies. Laws are formulated for holding elections in the local government bodies.

The fundamental principles of State Policy clearly mentions democracy as one of the principles and it clearly states that

The republic shall be a democracy in which fundamental human rights and freedom and respect for the dignity and worth of the human person shall be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.

[Article 11 of the Constitution of Bangladesh]

The state shall encourage local government institutions composed of representatives of the areas concerned and in such institutions special representation shall be given, as far as possible, to peasants, workers and women.

[Article 9 of the Constitution of Bangladesh]

Democracy and good governance is perceived nowadays as a precondition for poverty alleviation, sustainable development and social justice. Over the last 29 years after independence, there was little

opportunity for democratic practices and good governance at the local level particularly after 1975 when the democratically elected government was removed by the military force. Development of democracy is a matter of practice and it takes time to rejuvenate the democratic practices and values in a society. But importance should be given to a strong political will of the political parties and awareness of the voters to make them active. During the last few years a positive trend has been seen in the political arena leading towards democratization of the society. The initiatives to reform the local government system with enhanced participation of women is a significant landmark to the process of democratization of the society.

b) Local Government System in Bangladesh

The local government system in Bangladesh went through several changes during the post independence period. In 1972 the new state introduced a three-tier Panchayat system in the local government: Union Panchayat, Thana Development Committee and District Board. The laws related to local government were passed in 1973 and the name of Union Panchayat was changed to Union Parishad constituting of 1 chairman, 1 vice chairman and 9 members to be elected by adult franchise. The system was reformed again in 1976. The structure of Union Parishad was changed where the Vice Chairman's position was abolished and 2 nominated women members posts created. In 1981, through an amendment Swanirvar Gram Sarkar (Self-reliant Village Government) system was introduced with a view to growing more food, and to initiate local social development activities but in practice it became a tool to strengthen the local political base of the ruling party. The system was again abolished in 1982. In the same year another major reform was made through introduction of Upazila (thana) Parishad with one elected Chairman and other nominated representatives and official representatives where the Upazilla Nirbahi Karmakarta (Upazila Executive Officer) was made secretary to the Parishad. In 1983, the structure of UP was changed again to include 3 nominated women representatives. In 1991 the Upazila Parishad system was again canceled.

In 1996 a local government commission was formed to propose reform in the local government to make the local government more pro-people and beneficial to the people. In 1997, as per the recommendations of the Commission, a four tier local government system was introduced: Gram Parishad (village level), Union Parishad, Upazila Parishad (thana level) and Zila Parishad (district level). In this system Gram Parishad is meant to create provision for people's participation in the local decision making. Another unique feature of the system is introduction of direct election in the reserved seats for women. Only the Union Parishad has been in practice now. Elections in the other tiers are yet to be held. Other than this, in the urban areas there are two institutions of Pourashava (Municipality) and City Corporation.

The local government system in Bangladesh was wrongly used by the parties in power at different times for their political gain. They manipulated institutions to strengthen their power base at the local level. Particularly the autocratic regimes abused the system for maintaining their control at the local level. This is why the institutions have gone through a lot of changes without any effective development. This abuse of the institutions adversely contributed to the development process of democracy and good governance at the local level and consequently hampered poverty alleviation and sustainable development.

c) Regulatory Framework for the Institutions

The local government institutions in practice are considered as an extended arm of the executive division of the government. Authority and power in decision making and resource mobilization is not delegated to them, therefore, the institutions are ultimately dependent on the central government. Due to this dependence factor, they can not plan development programs and provide services based on the needs of the people of the areas they are elected by.

The local government institutions in terms of their activities, finance, staff and management are governed by the laws and rules and circulars issued from time to time by the central government. It is observed that the legal framework for executing the local government institutions is in some way or other obstructing the practice of autonomy in the institutions. The institutions are not provided with the opportunity to formulate plans of operation as per their requirements. Instead, they are governed by the bureaucracy. To put light on the issues of autonomy we can cite one instance. There is a provision for recruitment of a Secretary in the Union Parishad. Recruiting and supervising authority of this staff of UP is the Deputy Commissioner (DC) of the district. Even the authority of recruitment of the *Chowkider* and *Dafader* is with the Thana Nirbahi Officer (TNO).

The rules governing the local government institutions are also barriers to undertaking need based development programs for the areas. The plans to be developed by the local government bodies require to follow the formats and guidelines that in most cases do not allow them to develop need based proposals. There is a ceiling for budgets which hinders participatory planning. Rather it pushes them to design typical proposals. Therefore the projects lose their quality and effectiveness.

d) Role of the Local Government Institutions

The local government system in the past narrowly perceived the role of the elected representatives and the institutions i.e., giving different certificates, distribution of VGD/VGF (vulnerable group development/ vulnerable group feeding) cards, distribution of wheat and construction of roads and culverts, mitigating local level conflicts and providing support to the disaster victims. As democratic practices were absent the then autocratic rulers could not look beyond.

The present rules and manuals of the local government describe a long list of responsibilities and functions to be performed by the elected representatives. Following are some of the major functions of UP:

- Maintenance of law and order and assistance administration in maintenance of law and order;
- Adoption of measures for preventing crime, disorder and smuggling;
- Adoption and implementation of development schemes with a view to increasing economic and social upliftment of people;
- Promotion of family planning;
- Implementation of such development schemes as may be assigned to UP by the Upazila Parishad;
- Development of local resources and their use;
- Protection and maintenance of public property, such as, roads, bridges, canals, embankments, telephones and electricity lines;
- Reviewing of the development activities of all agencies at the union level;
- Motivation the people to install sanitary latrines;

- Registration of births, deaths, beggars and destitute;
- Conducting of census of all kinds.

There are 38 more additional responsibilities for them described in the manual. The huge task they are assigned needs proper allocation of resources and delegation of authority and power. The resource allocation for such activities is much lower than the real needs of the areas and consequence they can not perform the roles satisfactorily. Their authority to mobilize resources, planning and decision making is limited and that bars their taking initiatives in line with their roles and responsibilities. Besides, the local government representatives are mentally hooked to the traditional ideas and not very much aware of their responsibilities.

e) Pattern of Leadership

It has been observed that the leadership of the local government institutions are still dominated by the local elite and influential persons or families. The chairperson's position is still reserved for the rich and obviously for men with a very few exceptions. But in the last Union Parishad election in 1997, it was observed that a few positions were captured by the grassroots people particularly those who are organized by different NGOs. This is also true in case of reserved seats for women. However in all cases, linkages with the political parties are still very significant. It was also felt that control over the young section of the society is a big factor in getting elected in the local government institutions.

f) Scope for People's Participation

Scope for people's participation in the decision making of the local government bodies is until now a matter of tokenism. There is narrow space particularly for the poor to participate in decision making. The present system has created the provision for Gram Parishad - the lowest tier - which is supposed to be the platform for people to take part in the decision making of the Local government and where the elected representatives are to practice their accountability to people. The Gram Parishad is still to be made effective. It was also observed that out of frustration among the people regarding the fulfillment of their expectations from local elected bodies they are not very much interested in being involved in the institutions. Over the period they are alienated from the institutions. On the other hand the elected representatives are also not sensitized enough to the participatory approach.

g) Women and Local Government

The Constitution of Bangladesh has also guaranteed equal status of women and men in all spheres of life in the society. Women - half of the total population - are not yet integrated in the mainstream politics and decision making process. Democracy can never be meaningful if such a vast section of people is left aside. With a view to democratization of the society and ensuring delivery of justice to the people some affirmative initiatives should be taken for integration of women in politics. The constitution also suggests for special measures for the backward section of the population for bringing them at par.

Earlier women's role in the local government was seen as passive participants. There were provision for reserved seats for women who were nominated by the elected representatives. Recently the government has created a provision for reserved seats for women and direct elections to seats in the local government bodies. This can be termed a landmark in the advancement of women. In the last Union Parishad election in 1997, twelve thousand eight hundred women have got elected. Among them a good number came from the groups organized by different NGOs.

In 1998, the Pourashava election was also held under the new laws. Three seats were reserved for women in each Pourashava. This new law has created huge enthusiasm among the women to be involved in the political institutions.

In this context, women representatives are trying to fulfill the election pledge like proper distribution of above mentioned benefits plus justice for the poor and women in salish, health, safe water, education facilities etc. They are also trying to improve the law and order situation by demanding measures from the local government institutions against mustans (hoodlums). These initiatives threaten the present corrupted system of the chairman and their close associates making fortunes. Women members are also very vocal against corruption. As a result, they are facing strong opposition from chairman and other members.

Women are facing a lot more problems in performing their responsibilities. They are facing counter attacks from their male fellow representatives in discussion and decision making. Opinions of the women representatives are overlooked. There is no clear instruction of the role of women members. Chairpersons are not ready to give information or responsibilities to the women members.

They are facing a lot of obstacles in making space for them in the rural power structure but it is true that nobody can avoid their presence in the institutions. The rural power structure has gone through a massive shake and this nascent wave of democracy should be consolidated to a further extend with calculated steps.

h) Problems

Local government system in Bangladesh was never made strong enough to contribute in the local level development. In the present system of local government decentralization and devolution of power has not yet taken place. Elected representatives are not in a position to take effective decisions on matters related to public services because they do not have control over the bureaucracy.

The local government institutions are not very effective in mobilizing local level resources. The rate of tax collection is also very low. There is resistance from both the ends, from the representatives and also from the people. The regulatory framework of the local government institutions is not friendly to mobilization of local resources by the elected representatives.

The local government institutions are not accountable enough to the voters and they lack transparency. This has created a big gap between the voters and the institutions. People feel alienated from the bodies. Even among the elected representatives there is practice of hide and seek.

The local government institutions are not provided with adequate resources, power and authority to carryout their responsibilities entrusted upon them. In respect to resources and decision making they are largely dependent on the central government and bureaucracy.

The women representatives in the UP are facing a lot of problems working in their areas. The main problem is the patriarchal attitude of the society and thus of the male representatives of the local government bodies. It is not well accepted by the rural power people and the elite that women can take equal part in the decision making process.

Capacity of the representatives is not compatible to roles and responsibilities of the bodies and the expected services from the institution. They are not competent enough to develop plan, budget, implement projects, monitor them and keep records properly. They lack proper training or capacity building initiatives from the government.

Recruitment, supervision and termination of staff under the local government institutions are not in the hand of the elected representatives. They can not even hire more staff if they require. The provision created imbalance in the management of the institutions.

Above all inadequate allocation of resources from the central government is also a major problem in the local government to function effectively. The development initiatives taken by the local bodies are not comparable to the needs of the areas. There is a provision for an annual development program which is too small to keep pace with the local needs. The support provided by the institutions is very insufficient compared to the size of the poor of the areas.

i) Future Challenges

The scenario described above can not be changed over night and the government alone can not make it a positive one. We firmly believe that if the process goes on unobstructed and further nurtured by the government and people themselves plays an active role in upholding their democratic rights it can grow fully. The urgent need is strong will from the side of the government to make the institutions more effective and enhanced access of the people to participate in the affairs of the institution.

For strengthening the local government bodies decentralization of responsibilities and devolution of power is a must. Here government should be more affirmative in taking action in this regard and constant pressure from the people in general and the civil society is needed. It should also be remembered that the hundreds of years old bureaucratic system is a big hindrance in this transformation process.

Resource allocation from the central government should also be enhanced to a great extent to make the local government institutions more effective in dealing with the local problems. Their authority for fixation of tax/toll and tax collection should be enhanced. The system of leasing out the public resources of the areas should also be changed to give more authority to the institutions.

The local government institutions shall be provided with adequate resources, power and authority to carryout their responsibilities. Since for resources and decision making they are largely dependent on the central government and bureaucracy it is a big challenge to change this age old power base.

Participation of women in the local elected bodies should be made more meaningful. Their responsibilities should be clearly defined by the government and they should be given more authority to act as active members of the body. Here is another big challenge for sharing power with women by the traditional male leadership. The male members and the relevant people should be more sensitized to women's equal right to decision making at the local level. Civil society has a clear role to play in improving the situation.

The government alone can not provide necessary capacity building support to the representatives. It has been felt that the training programs conducted by the National Institute of Local Government (NILG) for the Chairmen only is not sufficient in building the capacity of the elected representatives. Other than the common training programs for the elected representatives separate training courses for the women representatives should be organized. Civil society organizations including the NGOs can also play a significant role in organizing different capacity building programs. Though there has been an ongoing effort by different NGOs for training the members of UP, this effort is inadequate compared to the total need.

Accountability and transparency of the local government institutions is another vital question to be taken into consideration. Access of voters to information of the institutions should be ensured to a

greater extent. All the information relating to the activities of the local government should be made public and accessible to the people.

Empowerment of women is not a linear process rather its a complex one. Involving women in the process of election will lead to sensitization of decision makers of the political parties, government, community and the voters which will bring an environment positive to women stimulating them more to get involved in the political and social activities. More active and competent role of women in the political process will create an impact in the perception of the society about the role of women.

The government, the civil society and the NGOs can play a vital role in creating an enabling environment for women to come forward and take their share in the political as well as other social fields. Their capacity should be strengthened, proper operational policy should be developed for ensuring participation of women in activities of the local government. Community people should be sensitized to the women's emancipation.

j) Conclusion

For establishing equality, social justice and empowerment of the poor particularly women there is no alternative to democracy and good governance. Bangladesh like almost all other South Asian countries is still lagging far behind in the race towards democracy. The systems of governance have become unresponsive and irrelevant to the needs and concerns of people. There is a dire need to concentrate more on this issue. Particularly attention has to be given to devolution of power and decision making at the local government and active participation of people in the process of local governance. Other than the government, the civil society and the NGOs have to play a greater role in promoting democracy and good governance towards realization of human rights, gender justice and sustainable development.

5.2.2. **Mr. Buddhadeb Ghosh, Senior Fellow, Institute of Social Sciences, India.**
TOWARDS PARTICIPATORY GOVERNANCE: LOCAL DEMOCRACY IN INDIA

“The political challenge for people around the world is not just to replace authoritarian regimes by democratic ones. Beyond this, it is to make democracy work for ordinary people”

Fidel Valdez Ramos
Former President of Philippines

PART I

After independence, India chose to opt for the democratic system of governance. That the country retained its democratic form of government continuously for more than half a century is correctly recognised as a great achievement of the Indian people. Certainly, a firmly rooted democratic infrastructure has come into being providing necessary, though not sufficient, conditions for developing a polity where ordinary women and men can enjoy the basic human rights and fundamental freedoms.

a) Crisis of Indian Democracy

Despite this achievement, the democratic system of governance of India is exhibiting signs of deep crisis. The crisis manifests in several directions. First the state appears to have failed to solve the basic problems of the people: poverty illiteracy, endemic hunger and under nourishment, gender oppression, caste inequality, lack of economic and social opportunities. Secondly, a yawning gap has been created between the ordinary people and the ruling class, namely those who wield political power and the bureaucracy. Elections are turning into mere rituals. Common people feel excluded from the process of making political decisions that affect their lives and have a bearing upon their well being. The formal institutions of government appear to them to be non-responsive and non-accountable. As media come up with stories of pervading corruption in public life, the people lose faith in the institutions of representative government. The crisis is also manifested in the interminable turmoil and conflicts generated from issues like religious, lingual, ethnic or caste identities and assertions – a phenomenon that results directly from the homogenising tendency of a centralised and non participatory governance system. These are ominous signs for sustainability of democracy.

b) Root of the Crisis

What lies at the root of the crisis that has overshadowed India’s democratic state?

In a democracy the state power vests in the people, This basic principle was beautifully expressed in the preamble to the constitution of India. “We the people of India”, the preamble states “... hereby adopt, enact and *give to ourselves* this constitution of India. “ We, the people of India”, the preamble states “...hereby adopt, enact and give to *ourselves* this constitution” (Emphasis added). Unfortunately, a fundamental mistake was committed in the constitution itself, while operationalising the principle. In order to enable people to exercise the power vested in them, they have to have access to the decision making institutions of the state. If such access is available and the citizens remain active, then they can make their voices heard and, in the process, shape the decisions of the state in a manner that would reflect their will and aspirations. This kind of citizens’ involvement in the affairs of the state is qualitatively different from the ritual of exercise of peoples’ power through elections every five years. The institutional structures designed by the constitution could not enable the people to participate in the governance substantially and not only ritually. This was the original sin of the constitution. The flawed democracy that the people of the country see today and

desperately seek its reform originated principally from the over centralisation of state power and lack of opportunity for ordinary women and men to influence decisions that affect their lives.

India, as is well known, opted for a two level federation with representative governments at the centre and at the levels of the states. Both the levels of the government are far away from the people. In a country of one billion people, a peoples' representative represents more than 1.5 million people at the central legislature and about 300 thousand people at the state legislature. It is not surprising therefore that members of parliament or members of the state legislatures remain far removed from the people. An ordinary woman or a man cannot even approach them without the help of some intermediaries.

Moreover, in the parliamentary system of government that India chose to set up, the role of the legislator in the governance of the country remains limited. A small fraction of the legislators forms the cabinet that runs the government. In the totality of governmental functions, the quantity of functions that can be performed or supervised by a small group of individuals comprising the cabinet remains always limited. The gap thus created is filled by the bureaucracy. In the process, governance practically becomes the business of bureaucracy. True, they have to work under the control of the cabinet. But the cabinet consisting of the elected representatives are available only at the national or state capitals. At the local levels of villages, sub district or districts, the representative institutions are not available to control bureaucracy. Thus, bureaucracy remains independent of people's control (directly or through the representatives) at the local level. That the bureaucracy should remain under popular control is a fundamental principle of liberal democracy. So far as bureaucracy for the local functions are concerned, their control should vest, as John Stuart Mill had argued long ago. "not with the national parliament or the national executives, but with the people of the locality,"² It is such absence of popular control over bureaucracy that the sub-state level that prompted EMS Namboodiripad to observe that 'democracy at the central and state level, but bureaucracy at all lower levels' is the essence of 'Indian polity as spelt out in the constitution.

Thus in the division of labour between different strata of government, there was no role for local government under the original constitutional scheme. Even in respect of distribution of power between the centre and the state, the bias was towards the central government. The conceptual framework of the founding fathers of the constitutions 'was consciously oriented towards a strong centre and weak subordinate states'. The subsequent working of the constitution also justified the characterisation of the Indian state as quasi federal. Indian democracy, therefore, stands on its head. "There is far too much power at the centre, a great deal more than is necessary in the states, and virtually none at the local level where the people are".

It is, therefore, clear that the root of the crisis of Indian democracy lies in the highly centralised system of governance and less than adequate popular control over bureaucratic machinery. The system has made governance non-transparent, non-accountable and non-participatory. It has encouraged the forces of homogenisation inflicting incalculable harm to the multi-cultural fabric of Indian society. It has curbed individual creativity. By siting the seat of government far away from people, it has shielded corrupt practices of the ruling class – people's representatives as well as the bureaucracy – from constant public scrutiny, thus exacerbating the phenomenon of corruption in public life. It has rendered five hundred thousand villages of India where nearly three – fourth of Indian people live abjectly dependent upon the mercy of the national or state capitals.

c) Decentralisation of State Power to Overcome the Crisis

It stands to reason that measures for overcoming the crisis of Indian democracy have to start with the dispersal of state power up to the grass root levels to enable people to participate, as UNDP's *Human Development Report 1993* observed, "In the events and processes that shape their lives". The first step towards this is obviously the transformation of India's two level federation into multi-level federation with a 'third stratum' of government at the local level of villages, blocks, districts and the municipalities, the government at each level having complete autonomy over an identifiable set of functions earmarked for it as well as full control over staff and financial resources required for discharging such functions. The principle of subsidiary should determine distribution of functions and responsibilities between different strata of government, so that what can be performed or discharged efficiently at the lower stratum are not passed on to the higher stratum of government.

Once, the polity is reorganised in this manner, an altogether new situation will emerge. It is not claimed that under such a situation, all the problems that beset governance today will get solved. What is claimed is that it will strengthen democracy. It will expand opportunities to the common people to make their voice heard at least at the levels of government which are near to them and where many of the important decisions which affect their lives would be made. As the common people increasingly take part in the process of decision-making of the local government, avenues for them will be opened to use their talent, creativity and energy for the purpose of solving local problems or for social, economic and cultural development of the local community. It will certainly keep in check corrupt practices of the ruling class, because decentralisation and popular control over bureaucracy will make the governance system more transparent. It has also the merit of arresting the tendency of the centralised state to set in motion a process of homogenisation in a country where diversity is its hall mark. Lastly, decentralised governance will encourage the growth of the ethos of self-rule, thus dispelling helpless dependence of people upon the state.

PART II

a) A brief history of local government of India

Historically, India was never ruled by the writ of the central authority as we see it today. The villages of India enjoyed a kind of self-rule in respect of local affairs that included judicial functions. Informal institutions such as panchayat (literally, an assembly of five persons) came into existence. Customs as well as caste norms gave them a position of authority to look after local problems of collective life. Inability of the central authority to enforce its writ through its own machinery in the far flung villages with little communication facilities made the villages communities practically self-reliant in respect of local governance. After the advent of the British rule, village communities together with the traditional institutions of panchayat lost their vibrancy and went into disintegration.

The British introduced statutorily constituted local self government institutions. To a certain measure, these institutions succeeded in towns or cities where municipalities or corporations were established. In the villages, no serious attempt was made to revive the institution of panchayat, despite recommendation to that effect by the Decentralisation Commission. Even where such attempt was made, as in the province of Bengal, the village level local government institutions were made to starve of funds as well as administrative support. These institutions could achieve little in respect of creating a tradition of strong, effective and representative local government.

Throughout the period of freedom struggle, Mahatma Gandhi advocated for a decentralised polity based on self-reliant village communities governed by the respective panchayats constituted with members elected by the local people. It not only Gandhi, but many other Indian thinkers, such as

Rabindranath Tagore, M.N. Roy or Jayaprakash Narayan, had also pleaded for a decentralised governance system. Despite the fact that there was a rich ideological heritage that pleaded for diffusion of state power and empowerment of people, India after attaining independence, opted for a centralised state. As noted in the previous section, the consequence of such policy has been miserable for the growth of Indian democracy.

In the conceptual framework of Indian Constitution, there was no place for local government. Panchayats found mentioned in the directive principles of state policy. These principles are not enforceable. The term 'local government' was mentioned in the seventh schedule that dealt with the distribution of powers between the centre and the states, But the term was not defined and statutory bodies like Improvement Trusts were equated with local self-government institution. Nevertheless, there were several attempts to introduce a local government system for the rural areas.

The first of such attempts began in 1957 when, following the report of a study team, the government of India under the leadership of Jawaharlal Nehru adopted the policy of setting up a three tier panchayat system for the rural areas. At the base of the three-tier system, there was to be gram panchayat (panchayat at the village level). At the district level, there was to be a zilla parishad, and between the district and gram panchayat, there was an intermediate level panchayat coinciding with the Development Block of Community Development Project. Jawaharlal Nehru christened this three-tier system as *Panchayati Raj* which refers to a process of governance where people can exercise their inherent power to rule themselves. The phrase epitomises the essence of democratic governance.

With the demise of Nehru in 1964, the panchayati raj introduced in the late fifties started first stagnating and then declining in almost all states except Maharashtra and Gujarat. An honest attempt to strengthen democracy from the grass root level thus got thwarted. In 1978. There was another attempt to revive panchayati raj following the report of another committee set up by the government of India. Several states of the country (notably, West Bengal, Karnataka and Andhra Pradesh) welcomed the idea and encouraged the growth of the grass root level institutions of self-governance. Among these states, only those of West Bengal survived. In other states, they met the fate of their predecessors after the regime that introduced the system was voted out the office and a new regime was elected to power.

Such was the position till the early nineties. Barring the state of West Bengal, panchayat elections were not being held regularly in other states. In some states, elections were withheld for decades on flimsy grounds. Even where panchayats were in position, they were denied adequate functional, financial and administrative power to enable them to function properly as local government.

PART III

a) The Constitutional Amendments on Decentralisation

The decade of the nineties opened up a new chapter for local self government institutions of India. It was mentioned earlier that initially the constitution of the Country did not have any place for the local government. Local self-government being a state subject, the panchayats in the village and municipalities or corporations in the urban areas were creatures of state legislation. The very existence of these institutions depended upon the political intentions of the regime controlling the state government. And the state governments were treating the institutions with utter neglect. For example, the government of Tamil Nadu withheld panchayat elections for fifteen years. During this period they announced and then postponed elections twenty times on trivial grounds. Those who were pleading for decentralisation had been demanding, for good reasons, constitutional status of the local government.

The first attempt to constitutionalise the rural and urban local government was made in 1989 when the Rajiv Gandhi government brought a bill of parliament. This bill was lost in the Upper House and, thus, the attempt ended in failure. Two years later, in 1991 the constitutional amendment bills in new forms were again introduced. In December 1992, the bills were passed in both Houses of Parliament. After ratification by the states, the bills later known as 73rd and 74th Constitutional Amendment Acts came into force in the early part of 1993. The former dealt with panchayats and the latter with the municipalities. These historic amendments gave the much wanted constitutional status for local government. The salient features of these amendments were as follows.

- A three-tier (two tier in the case of smaller states) panchayat system – at village, intermediate and district level – has to be set up for the rural areas. Similarly, for urban areas there shall be municipalities/corporations. The members of these bodies shall be directly elected by the people.
- Elections to the local bodies should be held at the interval of five years and there shall be a separate election commission in each state to supervise such elections.
- One third of the seats of each tier of panchayats and of the municipalities shall be reserved for women. There shall also be reservations of seats for the scheduled castes and scheduled tribe people. Same principle of reservation will apply in respect of the posts of chairperson of each type of local body.
- Panchayats and municipalities have been defined as institutions of self government implying that these bodies should have autonomy in respect of the identified set of functions devolved to them. Illustrative lists of functions/activities that may be transferred to them have also been provided. Eleventh Schedule has listed 29 items and the 12th schedule has earmarked 18 items which may be devolved to the panchayats and municipalities respectively. Functions / activities intended to be made over to the panchayats cover all aspects of rural development including school education, primary health care, rural infrastructure, small irrigation, agricultural extension etc.,
- The unique institution of *gram Sabha* was given constitutional recognition. The *Sabha* is a forum of all votes, that is very every adult persons of a gram panchayat area. At least, one meeting of the *Sabha* was made mandatory and the constitution expressed the intention that the state legislatures should give appropriate authority to it, so that the *gram sabha* could become an effective forum of direct democracy. In similar fashion, provision was made in the 74th amendment to constitute ward level committees in large towns/cities.
- Provision has been made to set up Finance Commission for each state, so that local bodies do not starve for funds.
- Subject to the above framework, each state legislature has been authorised to frame laws for the panchayats and the municipalities of the respective states.

PART IV

a) Post Constitution Amendment Development

Apparently, the 73rd and 74th constitution amendments have introduced a sea change in the institutional structure for governance by creating representatives governments at the base. To the optimists, it was seen as an attempt to enable Indian democracy to stand on its own feet. To bring home the point, one may look at the quantitative dimension of the institutional change brought about by the amendments. Previously, in the two houses of the central legislature and 30 state/union territory Assemblies (28 states and two union territories), there were a little less than 5000 people's representatives. After the amendments, there are 532 district panchayats 2912 intermediate level

panchayats, 2,31,630 village panchayats, 95 city corporations, 1436 town municipalities and 2055 nagar panchayats at the level below the state governments. Elections to these bodies at the interval of five years has been made mandatory by the constitution. This third stratum of government today elects about three million members of whom at least one million are women and 6,60,000 belong to the marginalised sections of the people, namely the scheduled castes and scheduled tribe people.

Has this changed the character of the Indian state? Has the courage of the Indian democracy that results from centralisation of power, the powerlessness of the common people been removed? The experience of the last seven years of the working of the historic constitution amendments gives a mixed answer. One need not be euphoric over the emotive phrase 'power to the people' that is sometimes associated with the panchayati raj introduced by the 73rd amendment. At the same time, it is not necessary to take a cynical stance from the failure to institutionalise, by and large, autonomous and viable local government institutions. With many instances of stubborn resistance of the old order to yield for the new, there are many success stories also of transfer of power to the people. Experience shows that long and arduous task lie ahead before the goals of decentralisation of the state power and institutionalisation of participatory governance are realised. To get an idea of the task, it is necessary to look at the manner as to how by their acts of omissions and commissions, the central as well as various state governments have tried to scuttle the scheme of decentralisation as envisaged in the constitutional amendments.

Election: Under the constitution, elections to the local bodies are mandatory. Yet, many state governments have flouted the constitution to withhold elections. Among the major states, the most serious offender has been Bihar which has, so far, taken no step for setting up elected panchayats in terms of the constitutional provisions. Last panchayat elections in Bihar were held in 1979. It is not only Bihar, many other states have been guilty of violation of the constitution. As of November 2000, as many as seven states excluding Bihar were found to have postponed panchayat elections either fully or partially. Some states, such as Uttar Pradesh and Orissa, held elections only after the intervention of the Supreme Court.

Functional Autonomy: The constitution intended that certain development functions / activities of the state government having relevance for the local area would be devolved to the Panchayats. Eleventh schedule provided an illustrative, but not exhaustive list of 29 items that might be transferred to the panchayats. It was also intended that the panchayats would have autonomous jurisdiction over the functions/ activities thus developed upon them. By and large, the panchayats of most of the states have not been given a set of functions over which they have autonomous jurisdiction. The state governments have retained their authority as before without sharing power with the local bodies.

Financial and Administrative Support: Panchayats remain financially weak. Their capacity to raise internal resources is low and barring the state of Kerala, large scale transfer of untied funds from the state to the local bodies has not taken place in any state. Even through the recommendations of the first state Finance Commissions have improved the position, improvement has so far been marginal. Besides, in many states, the recommendations have been implemented by the respective state governments.

Panchayats also lack administrative support in most states. In the states like Rajasthan, Andhra Pradesh or Orissa, gram panchayats function almost without support of any full time staff. It was expected that the ground level staff of line departments of the state government would be transferred to the panchayats. This has not taken place in most states.

Gram Sabha: The constitution provided for *gram sabha* with respect to each gram panchayat and intended that the state legislatures should assign adequate authority and responsibility to it. Being an assembly of all adult persons, *Gram Sabha* is a forum which can ensure direct democracy. This

forum may be an effective instrument for keeping the elected representatives of local panchayats under popular control and for enabling the people to participate in the decisions panchayats make for their well-being and development.

Even though *gram sabha* is a constitutional entity, “It has not so far achieved the status and position it should have”. Most of the states have given advisory role to the *gram sabha*, and not the authority to approve gram panchayat’s proposals. 11 The Panchayat may, and does, ignore the decisions of the sabhas. Meetings of the sabha are not called regularly. Even in the state like that of Madhya Pradesh where the dates of meetings have been fixed statutorily eliminating and scope for using discretion by the panchayat leaders, people do not seem to know about them. The caste, class and gender inequalities also stand in the way of making *gram sabha* an effective forum for practising direct democracy.

Participatory local level development planning: To prepare and implement plans for ‘economic development and social justice’ with people’s participation are constitutional duties of panchayats. The state of Kerala has put into practice this constitutional mandate in full measure. About 40 per cent of the total plan funds of the state are being allocated to the panchayats and the municipalities in untied form for preparing local level development plans with close involvement of gram sabha in the villages, and ward level and neighborhood level people’s committees in the urban areas. Moreover, these local level plans are being integrated with the development plan of the state 12. In other states, however, the situation is far from satisfactory. These states have taken no initiative to enable the panchayats to fulfil their constitutional mandate to prepare and implement local level area development plans in participatory process. Without adequate support from the state government, panchayats would be unable to shoulder their responsibility. Support necessary for this include. Untied fund for the panchayats; administrative authority over the local staff of the line departments of state government; legal and administrative support; training of panchayat members etc. The state of Kerala has taken care of all these. Other states did not. Panchayats of these states remain satisfied principally with implementing the poverty alleviation schemes of the central government.

Other Impediments: What is more distressing is the lack of a unified policy of different ministries/departments of central and state governments with regard to the role of the panchayats. For implementing their own schemes/programmes, they are creating ‘parallel structures’ without linking them with the local panchayats. Examples are: District Rural Development Agency for implementing poverty alleviation schemes; West Bengal’s State and District councils for primary education for management of primary schools; watershed development programme, District Primary education programme and Janmahoomi programme of Andhra Pradesh all of which may be implemented without involving the panchayats. What is more, funds are given to the MPs and MLAs directly by the central or state governments for development purposes bypassing the panchayats or municipalities. Madhya Pradesh government introduced the concept of District government curbing the inherent power of district panchayats.

b) Panchayats and Women

The report on *Human Development in South Asia*, 2000 observed: “Gender bias pervades at all levels of governance crisis.”

In Indian parliament, women members have never reached 10 per cent mark since 1952 when the first election was held. In most of the terms, women members constituted less than three per cent to around seven per cent of the total members. The position in the legislatures of the states is no better. Visibility of elected women in panchayats wherever they existed was even poorer.

In the above context, the 73rd constitution amendment that mandated a minimum one-third reservation for women in membership as well as in the position of chairpersons of panchayats at all

the level was remarkable indeed. This enabled women to form a 'critical mass' within the panchayat institutions. Today there are about million women in panchayats. At least, 175 district panchayats, 1970 intermediate panchayats and 77,210 village panchayats are headed by women. In some states, the one-third position of vice chairpersons also are reserved for women.

Other feature of women panchayat representatives are that majority of them have come from the lower socio-economic strata, they are young in age and are predominantly first generation entrants to public or political life.

Seven years have passed after the 73rd amendment came into force. In many states, the second round of elections on the basis of reservation provisions for women have been conducted. Studies made so far indicate mixed results. On the negative side, it has been noted that women members have to face tremendous opposition from their male counterparts. Family pressure and social restrictions also create difficulties for them. Husbands of women members or chairpersons tend to work on behalf of their wives sson trying to assert themselves in their new role. A study done in three states of Uttar Pradesh, Madhya Pradesh and Rajasthan exploded several myths: that women are disinterested in politics; that women are only proxy members and they do not attend panchayat meetings; that the advantage of reservation would be taken only by the women belonging to well to do families. In states where second panchayat elections have been held women members are reported to have moved ahead from the initial phase of learning after the first election.

There is no doubt that entry of women in 'critical mass' in the panchayat institutions has been an event of radical nature. Signs of emergence of women leadership are, certainly, visible in the countryside. But it is also true that patriarchy is still a powerful force in rural society. Even with their presence in large numbers in the local government bodies, they find it extremely hard to assert themselves. Hence they need full support from the civil society-inspired movements. Alliance between such movements and women panchayat leaders has now assumed importance for sustaining local democracy as well as for removing gender inequality.

PART V

a) Right to Development and Local Democracy

The declaration on the right to development was proclaimed by the General Assembly of United Nations in December 1986. This was the culmination of a long process of international deliberation on human rights beginning from the charter of the United Nations.

The right to development is in effect, the right to a *process* of development which has to be realised by the joint efforts of the state and the individual . It is a right realisation of which will ensure realisation of "all human rights and fundamental freedom": economic, social cultural and political. The process of development that the declaration on the right to development envisages has to ensure the following

- The national development policies of the individual states should aim at the constant improvement of well-being of the entire population and of all individuals'. The concern of development, therefore, is not only growth, but also equity, so that 'fair distributions of benefits' may result therefrom.
- The focus of development is the 'human person'. He or she is not only the beneficiary, but also 'active participant' of development. Hence the development process has to be participatory in nature . The nature of participation of the individuals in development should not only the 'active', but also free and meaningful'
- Following from the principle of participative development, 'all human beings have a responsibility for development, individually and collectively'. On the one hand, individuals

are entitled to their human rights and fundamental freedoms, on the other they have their 'duties to the community'.

- All individuals have equal opportunity of access to basic resource and 'education, health services, food, housing and employment'

- All human rights and fundamental freedoms are indivisible and interdependent". Hence, goals of development cannot be pursued without giving due regard to 'civil political, economic, social and cultural rights' of the people. In fact, ensuring realisation of these rights are preconditions for realising the right to development.

In the above context, local democracy assumes special significance. It was argued in this paper that existence of mere formal democratic institutions in the upper levels of governance system cannot ensure a true democratic polity. Democracy does not work for the ordinary people, when the governance remains centralised and non participatory. If the majority of the people of a country suffer from capability deprivations resulting from lack of education, health facilities and employment opportunities, the situation becomes far more adverse for the common people. Decentralised and participatory governance is a precondition for building a true democratic polity.

Right to development, as was noted is a development process that ensures active, free and meaningful participation of all people, including women and other marginalised groups. Such a development process is possible only in a system of governance which enables participation of people in the making of decisions that affect their lives.

Right to self-determination which is a part of the right to development includes the right to people over their natural wealth and resources. This right can be exercised by the common people, if they can have a say over the development programmes that affect their lives. Their meaningful participation is possible, if participatory development planning at the local level is made an integral part of the national planning. The great movement against Narmada dams originated because of total exclusion of the local people in decision making and criminal neglect of right of like of the common people.

Among the basic resources access to which is sought to be ensured by the declaration on the right to development, food security, housing elementary education and health services form the core area. These are also directly related to the 'right of life' and conducive to the realisation of the right to livelihood. To enable the common people to access these core resources, public provisioning of services at the local level is necessary. Indian experience shows that even with the best intentions, the state common provide them satisfactorily through the machinery of its bureaucracy controlled from above and being non-accountable to the local people: services remain inefficient, the benefits do not reach the needy, schemes do not reflect 'felt needs' of the local people, and sometimes schemes are introduced without giving due regard to the eco-system of micro area. Local level development planning in which local knowledge and local supervision form important inputs can definitely improve public provisioning for services for development of elementary education, health services, various poverty alleviation programmes including management of public distribution system.

During the past several years, efforts have been intensified at the level of the United Nations to identify measures of realisation of the right to development. Indian experience clearly shows that the struggle for realising the right to development that also subsumes other important human right is directly linked with the struggle for introducing participatory governance at the local level.

PART VI

Concluding Remarks

Indian democracy is showing signs of crisis. The root of the crisis, it has been argued in this paper, has to be located in the centralisation of the governance system and lack of opportunity available to the ordinary people to make their voices heard in the process of making decisions that affect their lives. India being a vast country with great diversity, the consequence of a concentrated governance system has been harmful. Democracy does not seem to be working for the ordinary people. Hence, the first major step to overcome the crisis of Indian democracy lies in the decentralisation of state power by institutionalising self-governments at the level below that of the state.

The 73rd and the 74th constitutional amendment which came into force in 1993 opened up the possibilities of much desired decentralised and participatory governance system. The 73rd amendment envisages growth of a system of three-tier local government for the rural areas where more than 70 per cent of the country's people live. These local governments – known as panchayats – would be in the nature of 'self-government' implying that they would enjoy autonomy in respect of functions devolved to them. To the optimists, the constitutional amendments brought hopes of a possibility of introducing a third stratum of government below the state level, thus transforming India's two level federation into a multi-level federation.

The experience of working of the constitution during the last seven years cannot be said to be satisfactory. The constitution provided only the framework of the decentralisation project. The task of translating this into practice through legislative and executive measures was given to the states. Most of the states have shown reluctance to share power with the panchayats and to facilitate the growth of self governing institutions at the levels of villages, sub districts and districts. There are however exceptions. The state of Kerala, for example, has embarked upon a project of decentralisation in a massive scale. The state of Madhya Pradesh also has taken many laudable decisions for the growth of viable local governments. But such examples are rare.

One of the greatest contributions of the constitutional amendments was reservation of at least one – third seats and positions of chairpersons in all levels of panchayat. This has enabled women to make an entry into local governments in a 'critical mass'. However, it cannot be said that women representatives have been able to utilise the new political space effectively. A long drawn battle has to be fought before women can assert themselves in these bodies.

Indian experience has shown that constitutional guarantee alone is not enough to strengthen local democracy. Between 'enactment' and 'action' lies a grey area which may be exploited by the forces of vested interest to their own advantage. The acts of omission and commission of different state governments in respect of implementation of the constitutional provisions have once again proved that those who have power do not want to share it with others.

Decentralisation and local democracy are precious objectives of the people. As argued in this paper, realisation of these objectives is closely linked with the realisation of the right to development' as well as other economic, social, political and cultural rights. The ruling class consisting of a small group of elites wielding political bureaucratic or economic power is reluctant to the growth of a governance system in which even ordinary women and men will have a voice. Hence, the struggle for realising the goals of participatory governance and local democracy has to be fought by the people themselves. There is no doubt that arduous tasks lie ahead for the civil society organisation who have to give support to the people's struggle for genuine democracy.

5.2.3. **Dr. Durga P. Paudyal, Executive Director, Rural Self Reliance Development Centre, Nepal**

LOCAL GOVERNANCE IN NEPAL: ISSUES AND CHALLENGES.

a) The Context:

There are several compelling factors in Nepal that makes a decentralized governance process imperative. Some of them are as follows:

- The country is situated in between the extension of Gangetic plain (called the Terai) in the south to the Tibetan plateau of China to the north, consisting of three distinct ecological zones: the Terai region to the south, the hill region in the middle and the mountain region to the north. Each ecological region has its own distinctive feature viz. the Terai region has a great economic importance because of its rich forest and agricultural resources to make it the 'food basket' of the country, the Hill Region has been the traditional population zone with subsistence agriculture while the Mountain Region has been the marginal area of human occupancy due to its rugged physical and harsh climatic conditions.
- Only 22% of the total land area of 147,000 sq.km. is cultivated, the rest is forest, steep barren and under perpetual snow cover. Hence the population density (of about 22 million growing at 2.5% annually) in relation to the cultivated land area, is quite high.
- There is a vast climatic difference across the country. The western part is dry than the east and the northern part is cooler than the south. This climatic variation dictates the cropping pattern, food habits and physical requirements for subsistence. For development works, when the southern part is ready during the winter season the northern part is under the snow and when the north is ready during the summer season the south is flooded with excessive rainwater.
- Nepal is the homeland of several tribes, races and ethnic communities, having their own language, religion, tradition, culture and occupational skills. Thus, only one development pattern does not fit all places/people in the same manner.
- Not all regions, districts and communities are equally developed. At present over 20 districts are not accessible by motorable roads. Development activities such as schools, health facilities and employment opportunities are concentrated in some accessible areas. Thus more inaccessible and remote areas are areas lack basic human development .

b) Past development:

The Constitution of Nepal 1991 has guaranteed four fundamental principles: multi party political structure, constitutional monarchy, fundamental rights and duties of the citizens and election based on adult franchise principles. The Constitution has provided the directive principles of the state (Article 25.4) to involve more and more citizens in the governance through the process of decentralization for equitable distribution of fruits of democracy across the nation. Accordingly, the erstwhile Panchayat institutions were renamed, under the same institutional framework, as Village Development Committees (VDCs), Municipalities and District Development Committees (DDCs). However, those institutions required to contextualize within the new political context. Thus, the government constituted a High Level Decentralization Coordination Committee (HLDCC) in 1996 to suggest a new policy for local self-government which was "suitable for the changing pluralistic socio-political context and capable to meet the challenges of the 21st century". The HLDCC made the following policy recommendations:

- Responsive and accountable local self government: One of the inherent problems of local bodies was the lack of responsiveness and accountability to their electorate. There was no legitimate mechanism for electorates to monitor the performance of their representatives, debate on it and expel if found guilty of misconduct or immoral performance. This was because the executive bodies were not the creation of their legislative bodies. It was therefore recommended especially at the DDC and Municipality level, where more power and resources would be devolved in the future context, the executive must be the creation of, and therefore responsive to, the legislative body. But a cautionary binding was suggested that while doing so the alternative set/candidates must also be proposed so that the out-going and in-coming could be voted together.
- Local resources mobilization: Although, VDCs, Municipalities and DDCs were given authorities for tax collection in several items, they were not effective due to the lack of a legal framework to enforce the taxpayers and several duplications Acts pertaining to sectoral Ministries. Thus, the Committee recommended to amend 36 other Acts which contradicted with the jurisdiction of the local bodies.
- Local level planned development process: Local bodies were given authority to plan but the final approval of projects and allocation of resources remained with the National Planning Commission and sectoral Ministries in Kathmandu. Moreover, similar activities were carried out by the local bodies as well as the sectoral offices in the district. Furthermore, there are limitations to the decentralized structure's ability to reach the poor and disadvantaged groups at the grassroots level, who are much below the formal structure. In several areas NGOs are more effective to activate demands, mobilize poor and backward groups and make them capable to utilize the resources and available at the local level. Recently development works are being carried out by NGOs, INGOs, and CBOs working at the local level which are to be coordinated under the local level planning process. Thus, an integrated area based planned development approach was recommended which should be based on area specific knowledge and potentialities.
- Staffing: Almost all staff working in the local bodies were under the service of the central government. Beside being unfamiliar with the local situation, many of them were eager to be posted "good" districts. Moreover, they also had to maintain their loyalty to their bosses in Kathmandu who decided their career. Thus, it was recommended to devolve authority to the local bodies to decide their own organizational and staffing structure and recruit staff locally. In order to make the recruitment and career development process impartial and transparent, a separate Local Government Service Act was to be framed.
- Capability development: The existing level of physical infrastructure, institutional and management capabilities of many of the local bodies, especially the VDCs, fall far short of the minimum level to undertake the responsibilities of the devolved functions. Thus, it was recommended that at least 10% of the budget of local bodies must be spent for capability building.
- Strategy for implementation: Decentralization policies during the past failed due to, a lack of a clear strategy for implementation. Thus, it was recommended that a high level Decentralization Monitoring Committee should be constituted which should help government to implement and continuously monitor the implementation process of the policy.

c) The Local Self-Governance Act 1999

Following the submission of the Report by the HLDCC the government drafted the bill in 1996, which, however was passed by the Parliament only in 1999, due to, among others, the instability of the government. The positive as well as negative features of the Act are as follows:

Positive features

- the name "Local Self Government" was used in the Act for the first time – earlier they used to be denoted as the 'local bodies'.
- the Act is comprehensive covering VDC, Municipality and DDC under one framework. This may avoid duplication and contradiction in the clauses.
- The election process prescribed under the Act is as follows:
 - the Ward Committee of VDC and Municipality would have 5 members (at least one woman) directly elected by the eligible voters of the ward. The Chairman/vice Chairman and Mayor/Deputy Mayor would be elected by the eligible voters of VDC/Municipal area. The Ward Chairman and Chairman/Vice Chairman or Mayor/Deputy Mayor and 2 nominated members form the executive body while the Ward Committees, Chairman/vice Chairman or Mayor/Deputy Mayor and 6 nominated members forms the VDC/Municipal Assembly or legislative body.
 - the DDC Chairman/Vice Chairman are elected by the electoral college of the VDC/Municipality elected officials (9 wards x 5 elected members + Chairman/Vice Chairman) of the district. Similarly, one Member from each Ilaka is elected from the electoral college of the VDC/Municipality of the Ilaka level. The DDC Chairman/Vice Chairman, members, 2 nominated persons, MPs representing the district forms the executive body, while the DDC officials, VDC/Municipal Chairman/Vice Chairman, 6 nominated members and MPs representing the districts forms the District Assembly (the legislative body).
 - six members from the backward communities (at least one woman) would be nominated in the lagislative body of which two (at least one women) to be nominated in the executive body. In this way, over 38000 women are represented in the local self governments.
 - the Act has also devolved some legal functions relating to the disputes of neighborhood to local self-governments.

Negative features

- The Act has failed to correct the fundamental structural problems of local self-governments to be responsive and accountable to their electorates. There is no institutional mechanism to monitor, check and control the functioning of the elected representatives. Thus once they are elected the can complete their office term without any hindrance.
- Like its predecessors the Act has also devolved a long list of functions to the local self-governments. But without making them institutionally capable to perform the functions and also without amending the duplicating and contradicting Acts these functions will not be effective.
- For planned development process the Act has provisioned village profile, resource map and periodic planning exercise to form the basis for annual planning. But, these steps are not coherent and binding in the Act, and hence they will only be voluntary steps.

- The Act has also made provision for high level Decentralization Monitoring Committee, but without any functions stated in the Act. Therefore, the effectiveness of the Committee will be dependent on the 'good wish' of the government.

d) Some issues in the actual conduct

The Local Governance Act was passed by the Parliament on December 1998. It waited for about 5 months for the Royal asset, which was given on April 1999. In another six months period the government prepared its By-laws and since then the Act is in force. However, some fundamental policy issues have not been resolved at the national level as yet. For example, can the decentralized planned development process, as proposed by the Act, be functional without the corresponding reforms at the central level? Without appropriate changes at all levels, as implied by the Act, there would be functional overlap among and between local and central level authorities. What would be the role of the national level sectoral ministries, NPC, national associations of local bodies, national level NGO, INGO and donors in developing decentralized planned development process? How to integrate and co-ordinate their efforts under the broad umbrella of decentralized planning?

Moreover, while the Local Self Governance Act is already in force, the planning and plan implementation modalities of macro and micro level should have been worked out. Some areas are still confusing. For example, at the central level all sectoral Ministries get approval for their sectoral policies, program and budget from the Parliament. Similarly, for the expenditure, each Ministry is answerable to the Auditor General, and to the Parliament when the report of the Auditor General is debated. But how will the sectoral line agencies fit into the sectoral planning of decentralized development, providing technical expertise and regulating expenditure in their sectoral programs at the local level so that they will be answerable to the parliament and accountable to the Auditor General? At the same time how will the local self-governments be developed as autonomous institutions from the central control and made responsive to local needs and aspirations?

Furthermore, as stated earlier not all regions, districts, areas and communities are equally developed and have similar absorptive capacities for development. Thus, some special efforts need to be made for those areas to bring them at par with other regions/groups. Similarly, in Nepal where the population below poverty line is over 50%, majority of the households fall much below the level where the decentralised structure could reach. These poor and disadvantaged groups need to be motivated and organised into, what may be called, income generating groups (IGG) and enable them to be able to demand the resources, opportunities, services and, indeed, "projects" channelled through the decentralised institutions meant for them. In such a social mobilisation programme there should be a clear institutional mechanism, working principles and resources whereby the government, NGOs and civil societies could work together.

Finally, the donors have provided a substantial amount of resources to the local level. But they have concentrated to implement their own vision, strategy and agenda while giving lip service to the decentralisation policy. There are several donors working at the local level either through their own projects or through INGOs and NGOs. But, the donors themselves do not have working co-ordination and complementarity among their projects thereby generating synergetic effect through multiple intervention nor are they accountable or answerable to anyone for the success or failure of the project. Although there is a remote sense of accountability to their respective government and taxpayers that can easily be handled through the annual reports with computer charts and colourful photographs of beneficiaries with captioned statements. As a result, unhealthy competition among development agencies, duplication of efforts and, above all, waste of resources have been noticed. Instead, donors should have focussed on evolving DDCs and VDCs as local governing bodies which could co-ordinate development process at the local level into an integrated decentralised planned development process.

e) The future challenges

- The decentralization policy is not properly articulated and understood in the Nepalese context. There is a dominant feeling among political leadership that decentralization means "giving" authority to the local bodies and, hence, the debate is "how much" to be given. But as we have pointed out at the beginning the diversity of Nepal is as such that the centre needs to "support" the area specific potentialities to take comparative advantages. Therefore the policy should focus on what arrangements need to be made at each level so that one can support the other.
- The party based political culture has not yet emerged in Nepal. Like in the Panchayat days, each leader wishes to establish his/her own political image at the constituency level. Thus the MPs do not wish to support the decentralized development process led by the local self-governments. This was echoed in the Parliament when each MP asked for funds at their own disposal for their constituency development. It started with Rs.400,000 per MP a few years ago, which has now gone up to Rs.1,00,000, and there is a rumour that this is still going upward next year. In this situation how can the decentralised planned development process be developed when the resources are channelled on an individual basis?
- Donors have understood the political and bureaucratic establishment as inefficient, corrupt and poorly motivated structures and therefore, they need to intervene through their own efficient and well paid mechanism. They may be correct in their judgement but very incorrect as to the solution. How long can/should they sustain by their own organizational structure? To whose cost? How will they end their own intervention? To whom will they hand over? To whom will they be accountable and responsible to? But neither the donor nor the government seem to have given thought to these issues.

f) Institutional structure of Local Self-government of Nepal

Level	Executive body	Legislative body	Deconcentrated sectoral offices
District	District Development Committee	District Assembly	District level sectoral offices
Ilaka	9-13 Ilakas in a district as constituencies for DDC Members		Ilaka level branches of district offices
VDC	Village Development Committee	Village Assembly	
Ward level	Ward Committees		

5.2.4. **Mr. Victor Gunewardena, Director, Sri Lanka Foundation Institute, Sri Lanka**
RIGHT TO INFORMATION

a) Inherent in the Human Person

The right to information is inherent in the human person as a social being, whose personal development takes place through interaction with the social community in which he or she lives. Gregarious by nature, the human person needs to communicate with others and to learn more and more about his social environment in order to meet his needs as well as to fulfil his obligations to society, of which he is a member.

This fundamental human right is articulated in the Universal Declaration of Human Rights, which, however, not being a legal instrument is not enforceable through the courts. Nevertheless, it is a common standard of achievement for all peoples and all nations, who are called upon to promote respect for the rights and freedoms enshrined in the UDHR and by progressive measures to secure their universal and effective recognition and observance.

On the other hand, the International Covenant on Civil and Political Rights, which was adopted by the General Assembly of the United Nations on 16th December 1966 and which entered into force on 23rd March 1976, binds the signatory nations to adopt legislative and other measures to give effect to the rights recognised in the Covenant.

The ICCPR formulates the particular right at Article 19 as follows:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) for respect of the rights or reputations of others;
 - (b) for the protection of national security or of public order (ordre public), or of public health or morals.

b) Sri Lankan Position

In Sri Lanka the constitutional guarantee of the right to information is not explicit, as is seen in article 14 (1) (a): “ Every citizen is entitled to the freedom of speech and expression including publication”.

However, the Supreme Court has held that the right to information is implicit in the particular formulation. (Fundamental Rights application, Visuvaligam v. Liyanage. 1984 2 Sri L.R.123)

The Court also held that the fundamental right is subject to restrictions. Such permissible restrictions are those as may be prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society.

The Draft Constitution enlarges the scope of this right by extending it to every person, as against the present restriction to citizens only. It also provides explicitly for the right “to receive and impart

information and ideas either orally, in writing, in print, in the form of art, or through any other medium”.

While the Draft Constitution retains most of the existing restrictions permitted by law, it substitutes a new wording for the formulation contained in Article 15 (7), which at present reads, the restrictions may be considered necessary to meet “the just requirements of the general welfare of a democratic society”. The substitution reads “...such restrictions prescribed by law as are necessary in a democratic society...”

The effect of the new formulation is that if the imposition of a restriction is challenged in court the Executive will have to prove the necessity of such restriction in a democratic society. The latter expression is understood to mean a society in which there is freedom, pluralism, broadmindedness and tolerance. The necessity for such restriction may have to be proved with evidence and not be based on a subjective decision of the Competent Authority.

c) Some Legal Constraints

Some existing laws contain provisions that constrain freedom of information. Among them are the provisions of section 16 of the Sri Lanka Press Council Law No.5 of 1973 and the Official Secrets Act No. 32 of 1955. In the latter law “official secret” is interpreted both vaguely and broadly.

Section 16 of the Press Council Law prohibits among other things, the unauthorised publication of proceedings of the Cabinet or any part thereof. This is understandable because there is need for Cabinet secrecy to enable its members to discuss freely and uninhibitedly and in secrecy government business, including proposed legislation. The doctrine of collective Cabinet responsibility requires that all legislation has the collective support of the entire Cabinet of Ministers.

Therefore proposed legislation needs to be scrutinised carefully by the Cabinet at the stage of a draft bill so as to ensure that all points of view among its members on the subject are aired without the glare of publicity, and possibly pressure. If publicity were to be given to the Cabinet proceedings either while they are on or even later, Ministers might be reluctant to speak critically on the subject.

It is in the interests of good governance that Cabinet proceedings be not published in order to foster free and frank discussion.

However, the public have a right to know what the decisions of the Cabinet are without waiting for official authorisation sanctioning publication.

At present, the Sri Lanka public would ordinarily come to know of proposed legislation only when a Bill is gazetted. Thereafter, the time allowed by law for citizens’ challenge of a Bill on the ground of inconsistency with the Constitution is very limited. Besides, in view of the fact that a Bill once enacted into law assumes a character of finality, proposed legislation being a matter of public interest should be exempt from the provisions of Section 16 of the Press Council Law.

The existing statutory constraints curtail public discussion of proposed legislation in that a potential plurality of sources of relevant information in the public interest are curbed by law.

The State’s reticence to disclose to the public information in its possession derives from the administrative practices that prevailed during colonial rule in the island.

On the other hand, the media by definition seek to serve the public interest by seeking, receiving and diffusing relevant information. Several countries have sought to provide by law for the citizen’s right to information to be effectively guaranteed by enacting a Freedom of Information Act.

d) Media Law Reform Committee Recommendation

The Media Law Reform Committee headed by senior attorney-at-law R.K.W Goonesekere recommended the enactment of a Freedom of Information Act, drawing on the experiences of several countries. Such a law would have as its chief aims:

- disclosure to be the rule rather than the exception
- all persons should have equal right of access
- if documents are withheld the Government would have to justify its action
- persons who believe they have been improperly denied access to the documents requested by them should have the right to seek injunctive relief in the courts.
- types of documents that may be kept secret must be specifically listed, indicating also the duration of secrecy.
- secrecy provisions in other laws must be subordinate to the Freedom of Information Act or must be amended to conform with it in practice and in spirit.

Such a law would necessarily have also to provide for categories of information the disclosure of which would be exempt because it is in the public interest to provide for secrecy. The US law has nine exempt categories including national security, trade secrets, law enforcement records, bank reports and personal privacy inclusive of medical records.

e) Sri Lanka's Draft Legislation

The Law Commission of Sri Lanka addressed the issue of a Freedom of Information law, invited public representations and came up with a draft Access to Official Information Act in November 1997. However, it has not received much publicity in the media and as a result there is hardly any public discussion on it.

The draft law seeks “to provide a right of access to information in records under the control of a government institution in accordance with the principle that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government”.

But the draft law is not far-reaching enough in that it accepts the position that “where under any written law the public is denied access to information, such information shall be governed by the said written law and this Act shall not apply to such information”.

Consequently, the provisions of the Official Secrets Act, for instance, would operate and prevent disclosure of any information within the scope of that Act. Likewise, the provisions of Section 16 of the Press Council Law would prevent disclosure of information without official authorisation.

Furthermore, the draft Act empowers the Minister in charge of the subject of Information to exempt where it is in the public interest to do so, by order published in the Gazette any government department, Corporation, Statutory Board, Provincial Council, Provincial Agency, or Local Authority from the operation of this Act. Thus, the Minister could nullify the purpose of the draft Act by exercising such power of exemption.

The draft Act falls far short of the recommendations of the R.K.W Goonesekere Committee in May 1996 on a Freedom of Information Act. The Committee observed among other matters that “constraints on public access to government-held information are incompatible with the principles

of genuine democracy and are at variance with the citizen's fundamental right to freedom of information".

The Goonesekere Committee cited the Declaration on Freedom of Expression and Information made by the Committee of Ministers of the Council of Europe in April 1982, which stated that: "the pursuit of an open information policy in the public sector, including access to information in order to enhance the individual's understanding of, and his ability to discuss freely political, social, economic and cultural matters" is an objective which it seeks to achieve.

Earlier, in December 1980, the Declaration of the Commonwealth Conference on Freedom of Information and the State, held in Wellington, New Zealand outlined seven principles as a universal guide to a national policy on information and the State.

In India, the Supreme Court in two cases, one in 1975 and the other in 1981, recognised the right to know as an integral part of the constitutional right to freedom of speech and expression.

f) Citizen Participation in Governance

The satisfaction of human needs and self-reliant development require relevant knowledge and information, which would enable people to function as effective members of the society in which they live. Such information would help foster social cohesion and awareness and promote citizens' participation in public life.

In order that the participation of people in the deliberations of the various decision-making bodies, be they at national level or sub-national level, be responsible, meaningful and productive of public benefit members of the public require access to official information.

If such information is withheld on the ground of executive privilege or official secrecy or is disclosed selectively or reluctantly by those who possess or control the information, then the process of participatory democracy is frustrated.

Among the categories of information which the public would require in order to facilitate their participation in governance are the following:

- budgetary information including the revenue base and items of expected revenue and proposed expenditure.
It is at the sub-national level including local bodies that such information is not easily available, especially about the rationale and basis of the periodical revisions of local rates and taxes.
- Consumer protection
- Public health and sanitation
- Industrial safety and occupational hygiene
- Fair trading and commodity prices
- Environment conservation and protection
- Education policy, curriculum content and examination data.
- Employment data

g) Media and the Information Process

The country's media provide event-oriented information on a day-to-day basis. The provision of such information is in consonance with certain norms of newsworthiness, which are not necessarily

oriented towards meeting citizens' needs and governance. They are largely reactive towards events and at times critical of governmental acts of commission and omission. Most media have an urban bias and as a consequence do not focus adequately on the needs of the rural population who constitute the majority and whose living conditions are marked by stark deprivation and glaring disparities both among districts and within them.

h) Current Trends

In recent years the rapid developments in information technology have revolutionised communication processes within this country as well as in the region. However, the main beneficiaries of the developments have been those who already have access to information, knowledge and entertainment through the media. A welcome development is that the electronic media are no longer a state monopoly. The emergence of private radio and television stations offers media audiences a plurality of information channels and a wider choice than earlier.

The growth of media institutions and expansion of their reach has made media increasingly competitive in order to be economically viable. Media's symbiotic relationship with advertising is witnessing a commercialisation of culture, stimulation of consumerism, the creation of more wants and at times a debasing of moral and social values.

These trends combined with the largely reactive role of media tend to diminish their potential as social critic and guardian of the public interest. If media are to serve the public interest effectively and assist citizens to participate actively in governance they need to play a proactive role. Not only must there be exposure of bad governance, wanton waste, maladministration and corruption but also media must indicate creatively and constructively what needs to be done and how. The performance of such a role calls for in-depth study and research into the major issues pertaining to governance and the articulation of viable solutions. Advocacy and persuasion are twin modes by which media could help civil society participate in governance.

5.2.5. Ms. Ranganayaki Pathmanathan, Sri Lanka Tamil Women's Union WANTED A FORUM FOR CIVIL SOCIETY

The Preamble of the United Nations Charter pledged the resolve of the people of the world to practice tolerance and live together in peace with one-another as good neighbors. A similar ideal had inspired philosophers, and religious and political thinkers many years before when they spoke of the family of man”.

When the United Nations system was created imperial powers were dominant, and faith in the ability of governments to protect the citizens was strong. The world was focussed on preventing a third world war. The world leaders were determined never to let it happen again. After the Charter was signed in 1945, though there had been no world war since then, humanity has seen much violence, suffering and injustice. The most notable feature of the past 50 years has been the empowerment of the people. People today have more power to shape their future than ever before, and this has led to a growth of international civil society as distinct from governments. Because many of the issues requiring attention today, are global in scope, people are beginning to be involved in the management of their affairs, and be active in areas where government is unable or unwilling to act.

To cope with this contemporary challenge there must be a strong commitment for values that can unite people of all cultural, political, religious or philosophical backgrounds. These values which include amongst others, liberty, justice and equity will provide the foundation for transforming a global neighbourhood into a universal community in which people are bound together irrespective of their national or other identities.

Justice and equity are essential human values. For peace and progress in any country it is important that there must be respect for these values. The absence of these values can give rise to resentment. Although people may be born into widely different economic and social circumstances, great disparities in the conditions of life are an insult to human sense of justice. Where a large number of citizens are treated unfairly, and where gross inequalities are not addressed, there is likely to be discontent and conflict.

All human beings in the world are born equal in their right to human dignity and are entitled to certain liberties; to express their own identity, to choose their form of worship, to earn a livelihood, to be free from persecution or oppression. Without these the world will become a battleground of warring individuals and groups each seeking to protect interest or impose their authority on their other.

Next to life, liberty is what people value most. Liberty enables people to choose to become whatever they can be in life. The rights and entitlements people actually enjoy in most countries in the world are far short of their liberty. People around the world have become more aware of possible threats to their liberty from a variety of sources. This threat could come from autocratic rulers, from political groups that try to cling on to power unlawfully, or even from action to suppress or drive out ethnic groups.

Even when there is order, liberty is sometimes threatened by deprivation: oppression based on caste, gender, abuse of children, and other social consideration. Action against the right to liberty is a common responsibility.

In any society for people to co-exist peacefully it is essential that there must be tolerance and mutual respect for one another. Tolerance and mutual respect form the basis for making a plural society, where there will be not only stability, but also where the society will be enriched by its diversity. Racial and religious extremism and intolerance have shown a marked increase in many countries

around the world and in Asian countries particularly recently. In some countries there is resort to violence to achieve political ends. In others governments have used violence to suppress opposition or to forcibly incorporate unwilling groups.

The world community should reassert the importance of tolerance and respect for the other person, respect for other people, other races, other beliefs, and other cultures. It must uphold these values, and must offer protection against those who abuse them. The guiding principle should be that all groups in individuals have a right to live as they see fit as long as they do not violate the rights and liberties of others also to co-exist. In other words people should treat others as they would wish to be treated.

To be an effective instrument of global governance in the modern world. the United Nations must take account of the emerging of civil society. There must be an assessment of the role the new actors will play in the management of world affairs.

One suggestion is to set up 'an assembly of the people' which will be a Forum of Civil Society in each Region of the world. The Regional Forums will have direct access to the General Assembly, which is a representative of governments. The Regional Forum will have the capacity to secure action by the United Nations where it considers necessary, as for instance where there is a threat to the security of people even though this may be an internal matter for any country. A Right of Petition can achieve this. Individuals and organisations will be able to petition the Regional Forums for action to put right wrongs when there is a threat to their security. It is important that the members of the Regional Forums be eminent persons if the decisions and recommendations of the forum are to be respected.

In conclusion it must be said that this suggestion to include new voices and provide a real opportunity to put right wrongs which threaten the security of people may meet with skepticism and even opposition from governments. It is recognised that there needs to be further discussion about this proposal in forums such as this, and it is hoped that this recommendation will only be a starting point for further discussion.

5.2.6 Ms. Bandana Rana, President – Sancharika Samuha, Nepal
MEDIA ADVOCACY
SYNOPSIS OF SPEECH

Ms. Rana commenced on the note that Advocacy is very closely linked to Media. In her organization ‘Sancharika Samuha’, activism takes place through the media. Women’s Rights, Gender Equity, Violence against Women are some of the many issues focussed upon for advocacy. She commented that participation of women in the media is limited. Further, she observed that in Nepal the government signs ratifications but is slow in implementation. It appears to her that important people in Society have no time for national obligations. Ms Rana went on to state that since Nepal has a patriarchal society, journalism too is dominated by the same concept. Hence there is insensitivity to the gender component. The work of Sancharika Samuha was detailed and Ms. Rana observed that a number of gender sensitization workshops for senior managers and other top level officers have been conducted. The organization has constant contact with the Police in helping victims of violence and it plays a catalytic role between Media and Governance. Further, they conduct a feature service every month on Television to highlight issues pertaining to women and to advocate gender equity, good governance, violence against women etc.

5.2.7. Mr. Rasheed Rehman, Social Democratic Movement, Pakistan
GOVERNANCE – REGIONAL & LOCAL (PAKISTAN)
SYNOPSIS OF SPEECH

Mr. Rasheed defined “Governance” as a value neutral term, part of a “given” and universally accepted set of values that we have implicitly and explicitly taken on board. The assumptions of value – neutrality and a universally accepted set of values in governance can be summed up in his opinion by asking questions such as “ Who governs ? whom do they govern? How? To what ends and purposes? “ He believed that rule by elites through over centralized, bureaucratically dominated colonial states, fails to deliver participatory governance at grassroots level. What is needed instead is peoples’ self governance down to the grass-roots. In his experience, despite the claims of the bureaucracy of expertise and specialization in the tasks of governance, the “steel frame” inherited from the colonial encounter has been exposed as inefficient, guilty of mismanagement, corruption and open to various vested interests.

Further, in a conservative society such as Pakistan’s where a tribal and feudal structure is prevalent, in some parts of the country women are prevented from voting. Apart from not participating as candidates in the political process, the ‘invisibility’ of women comprising more than 50% of the population is manifest. He continued to state that governance could be defined as based on People’s Rights, especially rights of working people.. Without these rights, a polity falls short of the description of “democracy”. It is his opinion that no genuine democracy can be expected from a military government. In addition he commented on the serious recession that prevails in the economy where local taxes are a burden to the citizens. There is growing opposition to the military government Mr. Rehman noted that political forces are coalescing against it.

5.2.8. Dr. Shyam K. Bhurtel, Executive Secretary General, Association for Development Committee, Nepal

THE ROLE OF LOCAL GOVERNMENT IN TACKLING THE ISSUE OF CHILDREN IN DECENTRALIZED GOVERNMENT - GOVERNANCE
SYNOPSIS OF SPEECH

Mr. Shyam K. Bhurtel focused on the democratic constitution of Nepal and its vision of establishing a welfare state based on the rule of law and good governance. The state has undertaken the special role of ensuring the well-being of the weaker sections of society, such as women and children, in all policy matters, creation of opportunities, resource allocation etc. Mr. Bhurtel further commented on Nepal's commitment at International level to 'Child Development'. The Ninth Plan Objective on Child Development is targeted to develop children physically, mentally and intellectually and protect and promote children's rights. This Plan has 12 program areas ranging from safe motherhood to education, child labor, assistance to children in difficult conditions and so forth. He noted that there is linkage with the local governments and that the latter is statutorily obligated to look after the issues of child development.

a) Status of Children In Nepal

Nepal has less than a satisfactory performance record in children's development. International and national documents certify this. The current low-income investment of the state in the services sector such as health, education, nutrition, immunization family planning etc., directly hinder the development of the child he stated. The speaker detailed the structure of the institutions and service providers to children in Nepal. They are the Ministry of Home Affairs, Ministry of Education, Ministry of Health, the local governments District Development Committees, Municipality and Village Development committees. There is division of responsibilities and tasks in these sectors. The Ministry of Women's Affairs has taken responsibility for development of children but it does not have satisfactory networking and human resources.

5.2.9 Mr. David Devadas, Consultant, Business Standard, India

MEDIA ADVOCACY
SYNOPSIS OF SPEECH

Mr. Devadas commenced by stating that Advocacy from the point of view of Media is a complex problem. He stated that although the need is there to focus on the grass root level it is difficult to change the focus. This has to be done at the Federal Committee Level. He described a few of his experiences. In the Alwar district in Rajasthan people suffered without drinking water. The local administrators had gone to the Panchayat. The Panchayat was slow in attending to the immediate problem of the villagers. Power is with the bureaucracy and he felt that the poor man's needs are not served. In another village there was very poor sanitation. The women faced extreme hardships with regard to sanitation. He believed that these problems could be addressed through the media but the media itself is in a flux. There is a trend towards mergers and major International Networks will be in focus in a globalized world. He observed that it is important to note the type of person who goes in to media. Today's young media personalities are connected to a world of glamour. They look at things from a career point of view rather than a 'change the world' view and in his opinion NGOs must bear this in mind.



COORDINATOR: MR. KALYNANDA. TIRANAGAMA
RAPPORTEUR: MS. PEARL THEVANAYAGAM

Constitutions across the world have largely recognised individual rights and enacted laws both locally and internationally. While several countries adhere to these laws and the people have recourse to justice under these laws citizens in many countries are restrained from obtaining reprieve for violation of their basic human rights despite democratic governance and despite laws incorporated in their respective constitutions.

South Asia in particular is undergoing tremendous change in government policies, transition of one form of government to another, be it through national polls, coup d'etat or military takeover and fundamental rights are violated purportedly in the name of national interest. South Asian People Summit 2000 recognised this need to address several issues arising in South Asia including human rights and convened a three day summit in Colombo in December 2000 where over 200 delegates from Bangladesh, Canada, India, Nepal, Pakistan and Sri Lanka participated.

The commission on Human Rights in particular attracted quite a large audience where judges, lawyers, academics and political analysts comprised the panel in the three day sessions. **Justice Kamal Hussein** of Bangladesh, **Dr. Gamani Corea** - former UNCTAD Secretary General, **Bradman Weerakoon** - former Presidential Advisor, **Prof. Swarna Jayaweera**, **Mr. Desmond Fernando** – President of the International Bar Association, **Dr. Deepika Udagama** – Law Faculty, University of Colombo, **Mr. K. Tiranagama** – Executive Director Lawyers for Human Rights, Sri Lanka, **Mr. R.K.W. Goonesekera** and **Mr. W. Selvakumaran** from the Human Rights Commission, Sri Lanka, were among the panel who imparted their knowledge and experience through discourse and suggesting plans of action.

South Asian Regional Perspective, International Human Rights Conventions and their relevance to Sri Lanka, Socio-economic and Cultural Situation and Future Perspective in the Role of the Judiciary were the main themes of the Human Rights Commission chaired by Prof. Swarna Jayaweera. The basic overview was presented by both Ramani Muttetuwegama and Justice Kamal Hussien.

The following presentations were made during the commission sittings:

5.3.1. **Mr. Kalynanada Tiranagama, Executive Director, Lawyers for Human Rights and Development.**

NATIONAL SECURITY LAWS AND HUMAN RIGHTS IN SOUTH ASIA

All governments consider national security or the security of the state as paramount. As the measures taken to protect national security often result in curtailment of human rights, there is a long-standing conflict between national security and human rights. It is not easy to reconcile the interest of the society in its survival and the interest of the individual in liberty. Almost every country in the world has laws today that curtail human rights on grounds of national or public security considerations.

In all South Asian countries there are a large number and wide variety of laws enacted with public or national security considerations. The impact of these laws on human rights varies depending on the severity of the provisions contained in them, the nature and the needs of the political regime at a particular time and the attitude of the judiciary towards these laws. These laws have been used for

different purposes by different South Asian governments and sometimes by the same government for different purposes at different times.

One can see certain common features in these laws:

- Extensive powers of arrest, search and interrogation in respect of a wide variety of acts without any precise definition;
- Broad powers of detention without charge or trial, exercisable by the executive with least judicial supervision;
- Provisions for restrictions on movement such as curfews, house arrest and internal exile
- Provisions for especially severe penalties, including death penalty for vaguely defined offences of terrorism and disruptive activities;
- Provisions for special courts or special procedures lacking traditional safeguards available to a defendant under ordinary criminal law, to deal with persons charged under these laws;
- Provisions for indemnification of members of security forces against legal action for abuse of powers under these laws.

Let us see what national security laws are in force and how they operate in different countries in South Asia.

a) Sri Lanka

In Sri Lanka there are two laws dealing with national security- the Public Security Ordinance of 1947 and the Prevention of Terrorism (Temporary Provisions) Act of 1979.

The **Public Security Ordinance No. 25 of 1947 (PSO)** was passed by the State Council on the eve of Sri Lanka gaining independence from the British. The PSO, as amended today, enables the President to make Emergency Regulations which have the effect of laws passed by Parliament by-passing the normal legislative process, where s/he is of the opinion that “in view of the existence or imminence of a state of public emergency it is expedient so to do in the interest of public security and the preservation of public order or for the maintenance of supplies and services essential for the public life.”

1978 Constitution has incorporated PSO into it as Chapter XVIII. Article 155 of the Constitution declares that the Emergency Regulations (ERs) have the legal effect of overriding, amending, or suspending the operation of the provisions of any law other than the Constitution. The Supreme Court (SC) has held the PSO *intra vires* the Constitution.

S. 2 of the PSO enables the President through Proclamation of a State of Emergency to bring into operation Part II of the PSO which vests him/her with extensive and wide powers to deal with the situation. A Proclamation of Emergency must be approved by Parliament within 14 days. Once a month it has to be approved by Parliament. The past experience has shown that this requirement of parliamentary approval is no guarantee against abuse of emergency powers.

Once Part II is brought into operation, S.5 of the PSO empowers the President to make such regulations as appear to him / her to be necessary or expedient in the interest of public security and the preservation of public order and the suppression of mutiny, riot or civil commotion or for the maintenance of supplies and services essential to the life of the community. S.8 of the PSO ousts the jurisdiction of the Courts to examine the validity of ERs, orders etc. made under the Emergency. Despite these ouster clauses, the SC has held that it has the jurisdiction to review the validity of ERs.

ERs give wide powers for arrest and detention. Under ER 18(1) any police officer or any member of the armed forces may search, detain for purposes of such search or arrest without warrant any person committing or has committed or whom he has reasonable ground for suspecting to be concerned in, or to be committing or to have committed an offence under any emergency regulation. Such person can be detained for a period of 90 days on a Detention Order (DO) issued by a police officer not below the rank of an Assistant Superintendent of Police in a place authorized by him. Invariably persons thus held in custody are detained not in prisons, but in police stations or army camps. A person thus detained should be produced before a Magistrate not later than 30 days after such arrest.

Persons other than members of the police and the armed forces too were given power to arrest under ER 18(1) during the period 1989 -1994. This provision facilitated the mass scale disappearances of youth during this period. The ERs brought into force in May 2000 contain this provision again.

ER 17(1) authorises the Secretary Ministry of Defence to order arrest and detention of any person with a view to preventing such person – (a) from acting in any manner prejudicial to the national security or to the maintenance of public order, or to the maintenance of essential services; or (b) from acting in any manner contrary to any of the provisions of ER 41(2)(a) or (b) < relating to obstruction to essential services> or ER 26 <relating to sedition and incitement>.

The maximum period a person can be detained under this provision at present is one year. Prior to 1994 a person could be kept in preventive custody indefinitely. After July 1987 over 15000 people were kept in detention over long periods – many 3-4 years without trial under ER17 (1). He shall be detained in such place as may be authorized by the IGP. Earlier the places of detention were gazetted. At present the person may be detained at any place decided by the Police. A person detained under ER 17(1) has a right to make representations to the Advisory Committee set up under the ERs. Secretary is not bound by the recommendation of the Advisory Committee. A person suspected to be a member of a proscribed organization has no right to make representations to the Committee.

The **Prevention of Terrorism Act, (PTA)** gives wide powers of arrest and detention. A Superintendent of Police (SP) or any other officer of police not below the rank of a sub-inspector authorized in writing by a SP may, without a warrant, arrest any person connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity. –S.6. Any person thus arrested can be kept in custody for a period not exceeding 72 hours without producing him before a Magistrate. Unless there is a DO under S.9 (1) he should be produced before a Magistrate who shall make order remanding that person till the conclusion of his trial. The Magistrate has no jurisdiction to review the grounds of arrest or order the release of the person on bail. He can be released only with the consent of the Attorney General. Any police officer can remove a person thus remanded to any place for interrogation and from place to place for investigation purposes.

S. ((1) of the PTA authorises the Minister of Defence to detain a person suspected of unlawful activity against the state for a maximum period of 18 months without trial. The Minister issues the DO initially for a period of 3 months, which is renewable for periods of 3 months at a time. Though the idea behind the requirement of renewal of DOs every 3 months seems to be for reviewing the necessity of detaining the persons any further, in practice DOs are automatically renewed and people detained under PTA are invariably kept in detention for the maximum duration and even more. However the SC has held that detention under S.9 (1) of PTA is for purposes of facilitating investigations and not as a preventive measure and therefore detention after investigations are concluded or longer than is necessary for same is illegal and a violation of fundamental rights.

Long term incarceration in Police Stations and Army camps provides an easy opportunity for torture. Most of the detainees allege that they were subjected to assault or torture while in custody. Since the detainees are held incommunicado, without access to lawyers, originally they could not invoke the fundamental rights jurisdiction of the Supreme Court. Later on the Supreme Court adopted the practice of accepting letters of detainees as special applications. In a large number of FR applications SC held that the detainees were subjected to torture and awarded compensation. Since the trials depend to a great extent on confessions and they can be convicted solely on the basis of confessions the detainees are invariably assaulted and tortured for extracting confessions from them.

Persons charged under the PTA and ERs are kept in custody till the conclusion of their trials. Courts have no power to grant them bail without the consent of the Attorney General. As a result they have to languish in custody for several years till the trial is concluded.

In a trial under PTA or ERs any statement or confession made by an accused to a police officer above the rank of an ASP is admissible in evidence against him. Such a statement can be proved not only against the maker himself but also as against any other person charged jointly with him, provided that such statement is corroborated in material particulars by other evidence. A person can be convicted solely on the basis of confessions extracted from them. Most of the cases filed under the PTA and ERs are filed solely on the basis of confessions, without any other evidence. Evidence, which is not admissible in a trial under the normal law, has been made admissible in trials under the PTA and ERs. A statement made before a Magistrate or at an identification parade by a person who is dead or who cannot be found is admissible in evidence. Documents found in the possession of persons accused of offences under the PTA or the ERs can be admitted in evidence without proof thereof. If there is a contradiction between the evidence given by a witness at a trial under PTA and a statement made by him before a Magistrate previously, the Court can act upon the previous statement. A certificate purported to be under the hand of the Government Analyst shall be conclusive proof of the statements made therein without the officer being called to testify.

PTA and ERs make provision for imposition of enhanced sentences. There is a severe departure from the normal law. For example, a person found with an unlicensed gun, if charged under the normal law, is liable to a fine of Rs. 1000 or one year jail sentence; if charged under S.2(1)(g) of the PTA, is liable to a jail sentence of 5 – 20 years; if charged under ER 34, liable to a minimum jail sentence of 10 years. However if he has the misfortune of being indicted under ER 36 he is liable to be punished with death or life imprisonment and forfeiture of all his property.

Even if he is acquitted at the end of a trial there may be no guarantee that he would be released. Until and unless the Secretary, Ministry of Defence revokes the DO on him, he would be detained.

In 1997, according to official figures, 8652 people were arrested in Colombo alone between July 1996 and July 1997 during security operations. At the end of the year an estimated 1200 people were detained without charge or trial under ERs or PTA, of whom 400 had been held for more than two years. As at September 1999, 764 detainees were held without charge or trial at Kalutara Prison and scores more at other places.

- As previous experience in Sri Lanka has shown, Public Security Ordinance has been used to subvert democratic process by declaring a state of emergency with ulterior political motives when there was no real threat to national security.
- The Emergency has been resorted to for reasons of expediency in law making, thus circumventing the normal parliamentary process.

- The Emergency has been used to suppress opposition political activities and deny legitimate democratic rights of the people.
- Workers' trade union right to strike has been taken away under the ERs. ER 41 that deals with essential services states that a person employed in any work in connection with an essential service who absents himself from work is deemed to have vacated his post and is also guilty of an offence. During the July 1980 General Strike over 100,000 employees were thrown out of their jobs under ERs.
- Thousands of people who could never have posed any threat to national security and who had nothing to do with terrorist or subversive activities have been held in detention over very long periods without charge or trial in violation of their fundamental rights.
- Detainees were held in custody in police stations for years with the result that many of them were subjected to torture and cruel, inhuman and degrading treatment in violation of their human rights.
- Powers given to the police, security forces and others under the ERs have resulted in large scale extra-judicial killings and involuntary disappearances reported at over 60,000.
- Sri Lanka has been continuously governed under emergency for 16 years, since 1983, except for a brief period of 6 months in 1989. Continuing emergency poses a grave threat to rule of law in Sri Lanka.

b) India

In India there are a large number of laws in operation making provision for preventive detention. The *Preventive Detention Compendium* published in 1996 by All India Reporter lists 85 national and state laws under which a person may be placed in administrative detention. In addition to three or four central statutes, every State has its own preventive detention laws covering various aspects of human activity. Indian Constitution, widely acclaimed as a liberal document containing strong guarantees on human rights, explicitly permits preventive detention by the executive by Article 22(5). During the 1975-77 state of emergency several thousand peaceful opponents of the government were kept in detention and civil liberties of the people including freedom of expression and freedom of association were severely curtailed making use of several repressive laws then in existence such as the Maintenance of Internal Security Act 1971, the Defence and Internal Security of India act 1975 and Prevention of Publication of Objectionable Matter Act 1976. Most of these laws were repealed in 1977-78.

With the emerging problems, first in Punjab and then in Assam and Jammu & Kashmir, India began enacting new legislation restricting fundamental freedoms. **National Security Act of 1980 (NSA)** permits detention without charge or trial for up to one year (two years in the case of Punjab) of any person who, in the government's opinion is likely to act in a manner "prejudicial to the defence of India, the relations of India with foreign powers, or the security of India. The Act dispenses with the obligation of the state to produce detainees before a Magistrate within 24 hours as is required by the Criminal Procedure Code. However the NSA requires that the persons detained under the Act be informed of the grounds for their detention within 5 days of their arrest and an Advisory Board is obliged to report to the government on the legality of detention within seven weeks. National Security Act is applicable to all States in Indian Union except Kashmir which had its own Jammu and Kashmir Public Safety Act of 1978 with similar provisions.

Another law which caused considerable concern for its impact on human rights was the **Terrorist and Disruptive Activities (Prevention) Act of 1987 (TADA)**, enacted to fight terrorism in Punjab, but was applicable to all States and to all Indians abroad. By 1992, 23 of 25 State governments had formally invoked TADA though many of them had no insurgency problems. Under TADA a person could be arrested on mere suspicion and remanded for exceptionally and dangerously long periods up to 60 days in Police custody where torture was often practiced; Police remand orders were made not by Judicial Magistrates, but by Executive Magistrates coming under Executive control. Persons were detained without charge for up to one year pending investigation into his or her involvement in certain broadly defined “terrorist” or “disruptive” activities, which encompassed any act, including the peaceful expression of an opinion which questioned the sovereignty or territorial integrity of India or which supported any secessionist claim. The Act dispensed with many of the traditional safeguards available to a defendant under normal criminal law; it required all trials to take place before a special court conducting its business in camera where the identity of witnesses could be kept secret and where the burden of proof could, in certain circumstances, be reversed. Confessions made to a senior Police officer could be admitted in evidence. TADA provided for the punishment with imprisonment ranging from five years to life or with death to anyone convicted of any offence under it. Appeals to the High Court were excluded; an Appeal could be made only to the Supreme Court, a legal remedy only very few, well-to-do, Indians could afford.

Over the years, tens of thousands of people have been held under TADA. The wide powers to arrest and detain without trial under the vague and imprecise provisions of the Act had been grossly abused throughout India. They facilitated arbitrary arrests of political opponents and members of vulnerable groups, as well as torture and other grave human rights violations. Minimum legal safeguards for fair trial did not apply to persons tried under TADA.

Indian Supreme Court in a controversial Judgement (*Kartar Singh v. State of Punjab*, JT 1994(2) SC, 423) in 1994 upheld the constitutional validity of TADA, while confirming wide-scale police abuse of the Act in order to circumvent ordinary legal principles. National Human Rights Commission recommended total scrap of TADA. TADA lapsed in May 1995 and was not renewed following widespread criticism by national and international human rights activists.

Even after the lapse of TADA cases could still be filed under TADA under S.14 which provided that it should be applied to active trials in various courts before its expiry and to defendants tried in future in connection with offences alleged to have been committed prior to the lapsing of the Act.

The Armed Forces (Special Powers) Act, 1958, which has been in force in large parts of north-east region (Assam, Mizoram and Nagaland) for almost four decades and in Jammu and Kashmir since 1990, allows for arbitrary arrest and detention. In areas declared “disturbed” the armed forces or para-military forces are given wide powers to arrest without warrant persons suspected of committing cognizable offences and to use force as may be necessary to effect the arrest. Though the Act provides for the arrested person to be handed over to the nearest police station “with the least possible delay” this requirement had been routinely ignored and people in their custody had been held in their custody for long periods of time before handing them over to the police. The Act gives the armed forces and the para-military forces broadly defined powers to shoot to kill in areas declared to be disturbed under it or under the **Disturbed Areas Act, 1955**.

The main law relating to preventive detention in Jammu and Kashmir is the **Jammu and Kashmir Public Safety Act, 1978 (PSA)**. PSA permits administrative detention for a period up to one year if a person is to be prevented from acting in a manner “prejudicial to the public order” or up to two years if his actions are likely to be “prejudicial to the security of the state”. Once a Divisional Commissioner or a District Magistrate has issued a PSA detention order, he is to inform the state government together with the grounds for making the order; the order will lapse unless the

government within 12 days of receipt approves it. A person may be detained under the PSA anywhere; he can be transferred from one place of detention to another place of detention by order of the Government. The detainee is to be informed of the grounds of detention as soon as may be, but within five days (in exceptional circumstances 10 days) to give the opportunity to challenge the order. But there is no need to disclose facts if the authority considers it is against public interest to disclose. Detention orders under the PSA may be challenged in the High Court. An Advisory Board chaired by a High Court Judge is to review the detention order and decide whether there are valid grounds for detention within 8 weeks of detention. If the Board found valid reasons for detention, the person may be detained for such period as the government may think fit; if not, the government shall revoke the detention order and cause the person to be released forthwith. The PSA confers immunity on anyone acting in good faith under it.

According to AI reports the human rights situation Kashmir has remained grim in the last two years. The government has used preventive detention legislation to silence critics and punish dissent. There has been an increase in unlawful killings of people believed to be connected with armed groups carried out by security forces, often apparently in reprisal against targeted killings of security forces by armed groups. More people appear to be deliberately killed by security forces rather than arrested and arbitrary arrests and detention of those peacefully voicing their political dissent appears to have become more widespread. Torture in custody sometimes leading to custodial deaths remains endemic. People continue to “disappear” after arrest; the non-compliance of the state with court orders makes legal redress unobtainable.

The Government of India was making an attempt to reintroduce many of the provisions contained in the lapsed TADA through **Criminal Law Amendment Bill 1995**. This Bill was subjected to much discussion among and criticism by national and international human rights organizations. The Bill contains the following provisions contrary to international human rights standards:

- a. Vague definition of “terrorist act” which could lead to the arrest and detention of persons who have not knowingly abetted terrorist activities as defined in S.3(1) making them liable for a minimum sentence of 5 years imprisonment to life imprisonment
- b. Dangerously vague definition of “disruptive activities” which could lead to prosecution of people for the exercise of their right to freedom of expression of political or other conscientiously held views – S. 4(2)
- c. Provisions leading to presumption of guilt for those accused of certain offences including those who are alleged to have rendered financial assistance to an accused, even if there is only “reasonable suspicion” that the accused carried out terrorist offences – S.21
- d. Provision for the identity and address of any witnesses to be kept secret –S.14(2)
- e. Provision for the trial *in camera*, based solely on the unfettered discretion of the Court trying the case –S.14(1)
- f. Provision for 90 days detention in police custody without charge or trial by order of a judicial Magistrate – S.18(2)(a) Detention to be extended to 180 days on application by the Public Prosecutor – S. 18(2)(b)

Some HR organizations in India consider this Bill as an attempt to make TADA which was a temporary legislation a permanent law in India. Law Commission of India has approved the Bill in 1999. The Law Commission in its Working Paper on Legislation to Combat Terrorism states as follows: ‘ The said Bill is basically modeled on the TADA (Prevention) Act, 1987 which has been the subject matter of a large number of decisions of Supreme Court and other courts. Not only the constitutionality of the said Act was upheld, many of its provisions have also been interpreted and explained by the Supreme Court and the High Courts. It bears repetition to say that between 1994 and 1999 the security scenario of India has worsened as pointed out above and that now the need is to have a permanent mechanism to deal with terrorist threat and activities affecting our country as is

indeed proposed to be done U.K. The Criminal Law Amendment Bill 1995, it may be reiterated, has been tempered with guidelines incorporated from judgement of the apex court in Kartar Singh's case and to accord with the current thinking and ethos of human rights.' The Law Commission circulated the Working Paper containing the Commission's proposals together with the Bill among various organizations and convened in December 1999 a seminar with the participation of human rights bodies, lawyers, senior officers of home ministry, media persons, DGPs from several States etc. to be presided over by Justice J. S. Verma, Chairperson, National Human Rights Commission of India, to discuss the proposals. The bill was to be introduced in Parliament in 2000.

In 1996, the government disclosed that more than 42,000 people were detained pending trial under the TADA. However, following a Supreme Court directive ordering the release on bail of various categories of detainees, the government revised the figure in December to 2000. At least 200 people were reported to have died in the custody of police, security forces and prison officials, and many following torture. In 1997, Thousands of political prisoners were arbitrarily detained. Preventive detention provisions in state and central legislation continued to be used widely. In Tamil Nadu alone around 2000 habeas corpus applications were reportedly filed each year for the release of men and women detained under state legislation allowing detention without trial for 12 months. Torture and ill-treatment were endemic leading to at least 300 deaths in custody. Extra-judicial killings continued to be reported from Jammu and Kashmir, states of the north-east, Andhra Pradesh, and other parts of the country. At least 159 people suspected of being armed political activists were killed in Andhra Pradesh.

In 1999, the Maharashtra Control of Organized Crime Ordinance was enacted This gives the police wide powers to intercept communications and allows for arrest, detention and trial procedures which do not conform fully to international standards. The authorities continued to use the lapsed TADA to detain people in Jammu and Kashmir by linking them to ongoing cases filed before 1995. Hundreds of people remained in detention despite Supreme Court orders for the review of all cases. Fifty people, including 12 women, were waiting trial under the TADA in Karnataka at the end of the year. Many individuals were detained under the 1978 Jammu and Kashmir Public Safety Act. Human rights defenders were harassed by filing apparently false criminal cases. S.151 of the CPC, which allows police to preventively detain people they suspect may commit a crime was regularly used to detain HR defenders and suppress peaceful protests. Several HR activists were detained under the NSA.

c) Pakistan

For the greater part in its history Pakistan was governed by military regimes with their proclamations and decrees which severely curtailed fundamental rights and fundamental freedoms. Pakistan also had several national security laws enacted under civilian governments.

The **Maintenance of Public Order Ordinance (MPO)** empowers the authorities to detain persons suspected of "acting in any manner prejudicial to public safety or the maintenance of public order" for a period up to 3 months. A review board could extend such detention up to 8 months or 12 months depending on the grounds of detention. The judiciary on an appeal to the Provincial High Court could review a detention order issued under the MPO.

Under the provisions of **Anti-National Activities Act of 1974**, official sanction of the government was required for a Magistrate to take cognizance of an offence under the Act.

Magistrates may not proceed to register a complaint and order remand of a person on the basis of a First Information Report submitted by the Police. S. 16 of the Act states: "No court shall take cognizance of any offence punishable under the Act except with the previous sanction of the Federal Government or Provincial Government or any other officer authorized by the Government." The

sanction issued by the government must specify names of persons, facts allegedly constituting the offence, and reasons for issuing the sanction. S.3 requires that a notification be issued by the government which declares the organization concerned an anti-national organization. This had the effect of reducing the opportunities for abusing the law by the police.

The **Suppression of Terrorist Activities (Special Courts) Act, 1975** which was amended several times, made provisions for setting up of special courts in all the provinces of Pakistan to try suspects for loosely defined “terrorist offences.” This law had several flaws: curtailment of the presumption of innocence of defendants is one; insufficient independence of its judges from the executive is another. Lahore High Court found that Judges of STA courts were dependent on the executive for their appointment, tenure, transfers and supervision of their work. In a Judgement in 1996 Lahore High Court declared that the constitutionally secured separation of the judiciary from the executive was not observed in the setting up of STA courts. Some of these courts were later reconstituted by placing them under the supervision of the provincial high court and appointing judges after due consultation with the chief justice of the provincial high court. A Pakistan Law Commission report mentioned that in mid-1997 some 18,625 cases were pending under the STA Act in the 4 provinces and it would require an additional 121 judicial officers to clear them speedily.

In 1991, Special Courts for Speedy Trial were set for a period of 3 years under the 12th Constitutional Amendment. This amendment too had serious flaws as it had limited the rights of defendants to present a full defence and disregarded the principle of equality before the law. It lapsed in 1994. The **Terrorist Affected Areas (Special Courts) Ordinance, 1991** provided for speedy courts in specially notified areas, but as no areas were declared as “terrorist affected”, no courts were set up under this Ordinance.

As the government could not curb the rapidly deteriorating law and order situation in Sind and Punjab provinces, the two houses of Pakistan Parliament passed the **Anti-Terrorism Act, 1997** in August 1997. The Anti-Terrorism Act, 1997 is intended to “provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto”; it explicitly overrides all other legal provisions (S.32), comes into force at once (S.1 (3)) and applies to the entire country (S.1 (2)). It enables the government to call in the armed or civil armed forces to aid the civil authorities in the “prevention or control of terrorist acts or scheduled offences; in the pursuit of this task, these forces may exercise powers equal to powers of the police (S.5 (1)). The powers of the police and other law enforcement personnel are enhanced by the Act. They may “after giving sufficient warning, use the necessary force to prevent the commission of terrorist acts or scheduled offences”, including the power to shoot to kill. They may “after giving prior warning use such force as may be deemed necessary or appropriate.... Against any person who is committing, or in all probability is likely to commit a terrorist act or a scheduled offence, and it shall be lawful for any such officer, or any superior officer, to fire, or order the firing upon any person or persons against whom he is authorized to use force...”(S.5 (2)(i)) They may arrest suspects without warrant (S.5 (2)(ii) and enter and search homes without warrant (S.5 (2)(iii)). No “suit, prosecution or other legal proceedings” will lie against any law enforcement officer for any acts done “in good faith” under the Act (S.39).

Offences covered by the Act include “terrorist acts” defined in S.6, “acts intended or likely to stir up sectarian hatred” defined in S.8, scheduled offences listed in the appended schedule which include murder, incitement of religious hatred and gang rape as well as the attempt or abetment of any of these offences. The Act empowers the federal or provincial government to add any offence to the schedule or to delete any offence from it. It also authorizes the government to declare any association unlawful “in the interest of the maintenance of public order”(S.40). Punishment for any terrorist act resulting in death is the death penalty; in other cases a minimum of 7 years imprisonment

up to life imprisonment and fine is prescribed. (S.7) The punishment for acts stirring up religious hatred is imprisonment up to 7 years and fine (S.9).

Police have to complete their investigations of offences under the Act within 7 days (S.19). Failure to complete the investigation speedily may result in the police being prosecuted for contempt of court (S.19 (2)), while “defective investigation may lead to criminal prosecution of police by the Special Court which may sentence an investigating police officer to imprisonment up to 2 years. (S.27) Confessions obtained by the police may be used in court against the accused subject to certain evidentiary rules (S.26).

Suspects arrested under the Act may only be tried by Special Courts set up by the Act; suspects arrested for offences allegedly committed before the Act came into effect may also be tried under the Act if the punishment provided by the Act is same as under the old law. Special Courts may conduct their sittings at any place the federal government may consider appropriate, including mosques or the places where the offences were allegedly committed. Special Courts may also try suspects in absentia provided a lawyer is appointed to defend him. Trials have to be concluded within 7 days. This time limit may only be extended if strictly required and only for 2 days. Appeal against conviction and sentence lies exclusively to Special Appellate Tribunals set up under the Act; Appeal has to be decided within 7 days.

Judges of Special Courts are directed to impose the maximum penalty prescribed by law; if a lesser punishment given, Judge has to give reasons. The Federal Government may decide the “manner, mode and place of execution of any sentence,....having regard to the deterrent effect which such execution is likely to have”(S.22). As the Court has power to punish any person who does anything which tends to bring the Court or Tribunal ... into hatred, ridicule or contempt, criticism of a case may be risky.

In 1994, hundreds of persons were arrested by the Army in Sindh and by police in other parts of the country. Torture continued to be widespread, reportedly resulting in at least 62 deaths. In 1995, Ordinances were promulgated to enable provincial governments to use the army and the paramilitary rangers for law and order operations and to give them police powers of arrest and interrogation during such operations. Scores of people were detained on political grounds without charge or trial after security operations. Torture in police, military and judicial custody to be widespread leading to at least 70 deaths. In 1996, dozens of political activists were held incommunicado and in unacknowledged places of detention. Criminal charges, intended to punish or intimidate, were brought against political opponents and journalists who exposed human rights violations. Torture in police and paramilitary custody was widespread and systematic, leading to at least 70 deaths.

In 1997, Dozens of prisoners of conscience were held on false charges or without charge or trial, often incommunicado and in undeclared places of detention. Throughout the year police arbitrarily detained hundreds of people without charge, usually for short periods. Dozens of people were held under preventive detention provisions, apparently because criminal charges could not be framed against them. Scores of political prisoners were denied fair trials and legal safeguards were often ignored. Torture in police custody resulted in at least 35 deaths.

In 1999, in May nearly 2000 NGOs in Punjab were closed down. HR and women’s rights organizations, including HRCP were harassed throughout Pakistan. Journalists faced intimidation, threats and arbitrary arrests.

d) Bangladesh

Bangladesh Constitution empowers the President, under Article 141A, to proclaim a state of emergency if he is satisfied that “the security or economic life of Bangladesh, or any part thereof, is threatened by war or external aggression or internal disturbance”. Once emergency is proclaimed, the President may make laws or take executive actions curtailing certain fundamental rights, namely, the right to freedom of movement, freedom of assembly, freedom of association, freedom of expression and the right to engage in a profession or trade. He is further invested with the power, under Article 141C, to suspend the right to move courts for the enforcement of any of the fundamental rights guaranteed by the Constitution. Any proclamation of emergency and any order suspending the operation of fundamental rights must be countersigned by the Prime Minister. No such proclamation shall remain valid beyond 120 days unless it is ratified by Parliament. But due to parliamentary majorities enjoyed by the parties in power, this ratification by Parliament has become a mere formality. The ruling party has been handed in effect a constitutional weapon to stifle democratic processes and curtail fundamental rights in the name of internal or national security. It is alleged that in 1974, 1987 and 1990 the ruling parties declared emergency to suppress political opposition. On each occasion hundreds of political activists were detained.

Amendments to Article 33 of the Constitution has restricted the safeguards available under the normal law against arbitrary arrest and detention to certain categories of persons. The right of any person in custody to be informed “as soon as may be” of the grounds of arrest, to consult and to be defended by a lawyer of his choice, and to be produced before a Magistrate within 24 hours of arrest and detention is denied to enemy aliens and those in preventive detention. Article 33 provides for detention of any person up to 6 months without charge or trial. The period of detention may be further extended if the Advisory Board, after giving the detainee an opportunity of being heard, considers that there is “sufficient cause” to do so. The detainee need not be informed of the grounds for detention if the authorities consider it is against public interest.

The **Special Powers Act, 1974 (SPA)** which provides specific provisions for preventive detention, has imposed further restrictions on right to liberty. The SPA has been enacted to “take special measures” for the prevention of prejudicial activities, for speedy trials and for more effective punishment of grave offences. A “prejudicial act” is defined as “any act which is intended or likely to, (i) prejudice the sovereignty and defence of Bangladesh; (ii) prejudice the maintenance of friendly relations of Bangladesh with foreign states; (iii) prejudice the security of Bangladesh or to endanger public safety or the maintenance of public order; (iv) create or excite feelings of enmity or hatred between different communities, classes or sections of people; (v) interfere with or encourage or incite interference with administration of law or the maintenance of law and order; (vi) prejudice the maintenance of supplies and services essential to the community; (vii) cause fear or alarm to the public or to any section of the public; (viii) prejudice the economic or financial interests of the state.”

The SPA allows the authorities to detain any person on any of the above grounds initially for a period of 6 months, and the period may be extended beyond this if so sanctioned by the Advisory Board. The authorities must inform the detainee the grounds of detention at the time of his detention or as soon thereafter as is reasonably practicable, but within a maximum period of 15 days. The detainee must be produced before the Advisory Board within 120 days from the date of detention, and the Board shall after due inquiry submit its report to the government within 170 days from the date of detention. There is no right to legal representation before the Advisory Board. In practice, the detainees are rarely even brought before the Board.

This wide definition of “prejudicial acts” allows considerable scope for their abuse by the authorities. According to AI reports 35,000 people were detained under SPA during the period up to August 1975; 100,000 persons between 1975 – 1981 and 150,000 persons during 1982 – 1990.

In a large number of cases, the judiciary has considered the legality of detention orders issued under the SPA. It is reported that 2688 habeas corpus applications were moved between August 1991 and June 1992: the High Court has given judgement in 1795 of these cases declared 1742 orders of detention to be illegal and without lawful authority. (AI, 1993) In the vast majority of such cases, the Court has found the grounds of detention to be vague, indefinite and lacking in material particulars.

S. 19 of the SPA allows the authorities to order the suspension of the activities of any association including a union or political party, for 6 months if it is satisfied that “ there is a danger that it may act in a manner or be used for purposes prejudicial to the maintenance of law and order.” In such cases it is also invested with wide powers to order search of the premises of such association, seizure of documents, and freezing of its funds.

The SPA makes provision for the offences specified in the Schedule to the Act, including sabotage, hoarding, black-marketing, smuggling and counterfeiting currency notes and several other offences defined under other laws, to be triable exclusively by Special Tribunals constituted under the Act. A Tribunal may take cognizance of such offence on a written report by a Police officer not below the rank of a sub-inspector. All offences under the SPA will be tried summarily.

The **Suppression of Terrorist Activities Act, 1992 (STA)** was passed in November 1992, for a period of 2 years, which may be extended. S.2 of the Act defines “terrorist activity” in very wide terms so as to include activity which do not come within the definition of terrorist activity such as (b) intentionally damaging any vehicle; (c) intentionally damaging or destroying any movable or immovable property belonging to any governmental or non-governmental organization; (d) seizing or forcibly taking any money, jewelry or valuables or any other property or vehicle from any person; (e) indecently harassing any adolescent girl or minor girl, or adult woman on the streets, in vehicles etc. STA lapsed in November 1994 and an ordinance provided for completion of prosecutions already begun under the Act.

All these offences are liable to be punished by the same range of sentences, with a minimum of 5 years imprisonment and maximum of death penalty. All offences under the STA are to be tried by Special Tribunals. The Act provides that each case must be investigated within a period of 30 days, which may be extended, for a further 15 days. It specified that as a general rule no adjournments should be granted unless the Tribunal considers it necessary in the interests of justice, and in such cases the adjournment may not exceed a period of 7 days. The trial itself must be concluded within 60 days, which may be extended up to 90 days at the discretion of the tribunal.

In 1994 the SPA was used to detain dozens of people without charge or trial. The High Court declared about 80 per cent of SPA detention orders issued during the year to have been unlawful. By September, 663 people were officially reported to have been arrested under the Suppression of Terrorist Activities Act since the beginning of the year. The vagueness of the Act led to it being used to harass political opponents. Among the arrested there were members of political parties, trade unionists and student activists. Over 40 people died in police custody allegedly as a result of torture. In 1995, scores of people, dozens of whom were prisoners of conscience were held under the SPA without charge or trial. The High Court declared the vast majority of SPA detentions illegal. Torture and ill-treatment in police custody and in jails widespread. Torture led to at least 7 deaths in police and judicial custody. In 1996, tens of thousands of people were arrested throughout the year during police operations to recover illegally held weapons. Most were released after days or weeks, as the police could not substantiate charges against them. Hundreds of people were detained under the SPA. At least 13 prisoners died in custody following torture.

In 1997, scores of people were detained under the SPA without charge or trial. They included four senior members of BNP who were in March before a nationwide general strike. They were held

without charge until the High Court ordered their release in April. At least two persons died in custody following torture. In 1999, SPA was used to detain hundreds of people including political opponents. At least 3 persons died in custody as a result of torture.

e) Nepal

During the movement for restoration of democracy, the **Public Security Act (PSA)** was often used to arrest and detain people. The new, democratic government in 1991 amended the Act. PSA permits the Home Ministry to detain a person upon presentation of written notice stating the grounds for detention. The District Court must be informed of the detention within 24 hours. It may extend the period of detention once, for an additional 6 months. The PSA allows for people to be detained for up to 12 months on vague grounds such as “the interest of the common people.”

In July and August 1994 several thousand people were arrested and detained for short periods during nationwide strikes and demonstrations. Out of them, 42 were charged under the Public Offences and Penalties Act of 1970 and 13 under the Anti-State Crimes and Penalties Act.

In 1996 more than 1350 people were detained on suspicion of being members or sympathisers of an armed opposition group; 600 of them were in detention awaiting trial at the end of the year. There were widespread reports of torture and ill-treatment by police. At least 50 people were killed by police in disputed circumstances. In order to meet the increasing violence the government adopted a more hard-line approach in 1997. In August 1997 it approved the Terrorist and Disruptive Crimes (Control and Punishment) Bill allowing, among other things, trials before special courts. However the Bill was dropped after a change of government in October. In August 731 people were reported to be in detention or awaiting trial in connection with the “people’s war”, including 38 held under PSA.

At least 300 people were reported to have been killed by police in 1999. Torture of political and criminal detainees to extract confessions or intimidate suspects continued to be reported on a regular basis. Several hundred people were arrested on suspicion of being members of or sympathetic to the Maoist groups. The total number of political prisoners in custody in mid-November was 1560. There was widespread abuse of the PSA to curtail freedom of expression and imprison government opponents.

f) Bhutan

Bhutan does not have a written constitution or bill of rights. There is no guarantee against arbitrary arrests and detention in Bhutan. Due to increasing opposition to the ruling monarchy, Bhutan enacted a **National Security Act in 1992**. This law prescribes the death penalty or life imprisonment for treasonable acts against the government and proclaims a series of vaguely defined offences, punishable with imprisonment for up to ten years, including “attempts to undermine the security and sovereignty of Bhutan by creating or attempting to create hatred and disaffection among the people” and attempts to create “misunderstanding or hostility between the government and people of Bhutan and the government and people of any foreign country with which Bhutan has friendly relations.” Human Rights activists reported that hundreds of activists of Bhutan National Democratic Party and Bhutan Human Rights Organizations are being detained in jails and detention centres under this law.

In 1994 more than 50 political prisoners remained in detention without charge or trial. A further 50 had reportedly been charged and were awaiting trial. 17 persons charged under the NSA were to between 10 years and life imprisonment. In 1996, 89 persons had been imprisoned under the NSA. In 1997 at least 150 possible prisoners of conscience were detained, many of them incommunicado,

without charge or trial. Many of them were reportedly tortured or ill-treated by law enforcement officers. Tek Nath Rizal, the leader of the Bhutan National Democratic Party was released in December 1999 after being in detention for more than 10 years.

g) Maldives

In December 1990, the Citizens' Majlis passed the **Prevention of Terrorism Act (PTA)** which was applied retrospectively. According to the Head of the Police Division, the law allows for suspects to be detained in police custody up to 15 days. The police can then apply to the President for an extension of custody for up to 45 days. Prisoners cannot be held by the police for more than 45 days. After this period, prisoners who are to be charged would either be released or put under house arrest, which is not a form of police custody. Prisoners are held at Police headquarters while in police custody. There is no provision for lawyers to visit prisoners and due to the scarcity of lawyers in the Maldives and to the fact that most Maldivians would be unable to afford a lawyer, this is not a practical option. Prisoners have no right to challenge the legality of their detention, but could write to the detaining authority or to the President. There is therefore no independent judicial or other supervision of prisoners. Ultimately, the supervision of the legality of the detention and the welfare of prisoners lies with the Minister of Defence who is the President.

There are provisions in the Maldivian Penal Code, which have the effect of criminalising legitimate political dissent. S.38 (a) states: *“It shall be an offence for a citizen of the Maldives, or any alien within the territory of the Republic of Maldives, to cause by anything said or written any anger or hatred in, or incite a rebellion by, any section of the Maldivian public against the lawfully elected government of the Maldives. It shall also be an offence to similarly cause anger or hatred or incite rebellion between sections of the public.”* A broad definition of acts deemed to cause hatred or rebellion is given in S.38 (d): disobeying an order of the government and demonstrating against the government or trying to do these things, are included as acts considered to cause hatred or rebellion under S.38 (a).

Article 8 of Law No.4 of 1968 is another provision which might lead to imprisonment of persons holding dissenting views. This article reads: It is unlawful to make public either in writing or orally one's thoughts on the following topics: a. Anything against the religion of Islam; b. Anything that might endanger the peace and stability of the country; c. Anything that could be libelous to anybody.

Political and other prisoners are subjected to torture or ill-treatment and confessions are extracted under duress. Before they are brought to trial, political prisoners appear generally to be kept at Dhoonidhoo detention centre, which directly comes under the responsibility of the police. Some people are held in solitary confinement for several months – as long as 18 or 24 months - after denying knowledge of charges against them.

Confessions are extremely important under Maldivian rules of evidence. The confessions of political prisoners are reportedly read out on television and radio and reproduced in a government newspaper before the prisoners are brought to trial. Rules of evidence require that two witnesses must be called by the prosecution to support the charge, but that a conviction can also be secured solely on the basis of a confession by the accused.

Candidates stood as independents in the Parliamentary Elections held in December 1994 as no political parties were allowed in the country. A request to form a political party was turned down. In July 1994 legislation was passed by Citizens' Majlis providing for between 2 – 5 years imprisonment for people found guilty of involvement ‘in giving religious advice that contravenes independence and the government policy ... and the policy stated by the President’. At least 15 people were arrested in March because their political views or religious practices were different from those sanctioned by the government.

In 1995, a retired civil servant and a politician /writer were arrested and kept in detention for months in connection with private comments they had made regarding the cost of a newly constructed presidential palace. The person who made the request to the Ministry of Home Affairs to form a political party in 1994 was held in detention for several months probably for the same reason.

In 1996 over a dozen persons were detained for expressing views critical of the government. A free lance journalist was sentenced to two years imprisonment for writing an article to a foreign magazine commenting on the presidential and general elections. He was denied the right to be represented in court by his lawyer. The person who sought to run as a presidential candidate in 1993 elections was subsequently charged with unconstitutional behaviour and sentenced to 15 years imprisonment. A group of more than 10 persons were arrested, apparently in connection with a peaceful demonstration about a rise in electricity prices. They were detained without charge or trial for more than 10 months.

In 1997 several persons, including some intellectuals, were subjected to severe retaliatory measures for criticizing the government. A journalist was kept in detention for 3 months reportedly in connection with a short story he had written to a newspaper about the treatment of a young woman held in solitary confinement in police custody. Conditions of detention amounted to cruel, inhuman and degrading treatment.

In 1999, the persons arrested in early 1996 in connection with a demonstration about electricity prices continued to be detained. Among political prisoners detained on the prison island of Maafooshi, reportedly included a parliamentary candidate detained after an argument with a rival candidate with links to the government.

h) Conclusion

- In all our countries serious human rights violations continue to occur under the pretext of preserving national or internal security. All these laws have brought about tremendous suffering on our peoples. Tens of thousands of people have been arrested without any reason or justification and detained without charge or trial for very long periods; thousands of people have been subjected to torture and other forms of cruel, inhuman and degrading treatment while in custody resulting in their hospitalisation or deaths; Thousands have been extra-judicially killed.
- The real purpose of these laws is not to ensure national security and thereby to protect the human rights of the people, but to check and restrict the basic rights and freedoms of the people, especially if they are seen to be unsympathetic to those in power or the established political, economic and social structures of the country. These laws are used to protect not the nation or the people, but the governments that legislated them.
- These laws are often abused for political purposes, restricting democratic processes or to prevent political opposition coming to power.
- The vague terminology often deliberately used in these laws such as “disruptive activities”, “anti-national activities” leave much room for manipulation by the authorities to the detriment of people.
- Those caught under these laws have to suffer further injustice. Investigation of suspects often begin with illegal arrest, incommunicado detention and forced confession. Denial of access to defence counsel, unfair trials, denial of presumption of innocence and unjustified convictions and severer penalties are the norm.

- The judiciary in most of the countries have failed to prevent or curb the illegalities committed under these laws and protect the rights of the people. In a way they have strengthened the hands of the executive through their decisions.
- Many of the provisions in these laws are incompatible with international human rights laws and standards.
- There is an urgent need for a strong movement or campaign for people's solidarity against violations of human rights under the national security laws and to repeal or reform such laws to the extent they are incompatible with international human rights norms and standards.

5.3.2. **Ms. Rokhsana Khondker ,Advocate, Bangladesh Supreme Court Chairperson,
Bangladesh Children’s Rights Forum (BSAF) Executive Director, Khan Foundation
Member, Law & Society Association (USA)**
HUMAN DEVELOPMENT IN BANGLADESH

a) Introduction

Development means the positive change of status. And human development means change of human being in a positive way. According to UNDP, human development is defined as a people centred process of development that creates sustainable opportunities for people to exercise more choices and realize their full potential. It promotes equitable development, social integration, human justice and security, and sound governance. It is concerned to protect and regenerate our environment and safeguards option for future generations.

Human development requires Poverty Alleviation, Promotion and Protection of Human Rights, Institutionalization of Democracy, Ensuring Good Governance, Equal Participation of Men and Women, Self Reliance, Transparency, Accountability at all sectors, Improving Primary Healthcare, Ensuring Pollution free Environment, Removing Illiteracy, Creating Empowerment Opportunity etc. These are the core requirements for human development.

b) The Case of Bangladesh

- Human Development from Bangladesh’s Perspective

The Human Development Report 2000 published by the UNDP measures Bangladesh’s position in Human Development Index. It shows the HDI rank of Bangladesh is 146 in the world and Bangladesh is in the group of Low Human Development category. This is a very disappointing feature because Human Development Index indicates a country’s achievements in terms of life expectancy, educational attainment and adjusted real income. We need to change this situation with integrated efforts of the governments, NGOs and individuals.

The UNDP Mandate is to build each country’s capacity for sustainable human development in the field of:

- Poverty eradication
- Employment creation and sustainable livelihood
- Empowerment of Women
- Protection and regeneration of the environment
- Good governance

And UNDP programmes have been developed on the following agendas:

- Public management for good governance
- Advancement of Women
- Sustainable management of environment and natural resources
- Achieving food self-sufficiency
- Generation of non-formal employment (*UNDP in Bangladesh*)

- Eradication of Poverty

Eradication of poverty is a very important issue throughout the world. In the World Summit for Social Development in Copenhagen, countries committed themselves to the goal of eradicating poverty. Low income does not mean only poverty. It is much more than. It can also mean the denial of opportunities and choices most basic to human development to lead a long, healthy, creative life and to enjoy a decent standard of living, freedom, dignity, self esteem and the respect of others. And, we all have to take the challenge of eradicating of poverty. In Bangladesh the Fifth Five Year Plan (1997-2002) has envisaged the target of eradication of poverty by the early years of the next century through the strategy of social mobilisation at the grassroots level. The concern for poverty eradication within this stipulated period has also been reflected in the charter signed by the heads of the governments of SAARC countries in 1993. Now we need to adopt proper actions to reach this goal. The government with the assistance of UNDP launched a Community Empowerment Programme aiming at alleviation of poverty so that the poorest gain more control over the factors and decisions that affect their lives.

- Human Rights in Bangladesh

Bangladesh is a developing country. She is trying to keep pace with the present world order. The Constitution of Bangladesh is strongly committed to ensure basic human rights to the people. Bangladesh has incorporated almost all the rights enumerated in the Universal Declaration of Human Rights in its Constitution. Bangladesh has become party to six core human rights treaties i.e. International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Prevention and Punishment of the Crime of Genocide etc., Apart from these Bangladesh has also signed several other Conventions and Treaties e.g. Convention on the Elimination of all Forms of Discrimination Against Women, Convention on the Rights of the Child etc. At the national level the government has taken also some measures in this regard. The government adopted a National Children Policy in 1994 a National Women Policy in 1997 to increase the status of women and to face the challenge of development and to achieve sustainable human development.

- Actual Scenario of Human Rights in Bangladesh

The actual scenario regarding Human Rights in Bangladesh is however very grave. From a recent report published by the United Nations Population Fund (UNFPA), it is evident that in our country, 47 percent women are victims of physical torture. This report shows that Bangladesh secures second place in the World in abusing and torturing women. They are the most vulnerable group in the society. Amnesty International's Report 2000 shows, "women were subjected to an increasing number of violent attacks, highlighting the government's failure to take adequate measures to protect women and address underlying gender discrimination. Custodial violence against women continued to be reported, with at least three cases of women being raped by the police. In the wider community, hundreds of women and girl children were scarred and maimed in acid attacks and scores of others were murdered in dowry-related incidents. The failure of law enforcement of officials to exercise due diligence to prevent, investigate and take legal action on acts of violence against women meant that perpetrators were rarely held to account. In one case the police in Rajshahi were said to have demanded a large bribe before taking action to investigate the reported gang rape of a 12 year old girl".

Though Bangladesh signed the Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment in practice people of the country are not free of danger of torture, and other cruel inhuman or degrading treatment or punishment. They are sometimes the victims of ruling, party activists, some times they are the victims of inhuman and cruel punishment of police. Torture, illegally inflicted upon the people by the police is a common picture through out the country. Some people died in police custody as a result of torture. It has become a common practice of misusing the section 54 of the Criminal Procedure Code. Special Powers Act and Public Safety Act are used as instruments to detain people specially the activists of the opposition parties. But it is the reality that in most of the cases detention under this act proves itself as unlawful by the court.

- Lack of Institutional Safeguards

Although the government is obliged to promote and protect Fundamental Human Rights of the People of the Country, Human Rights is yet to be established in the real sense of the term. Merely being a party to human rights instruments can't ensure individuals rights unless there is any implementation mechanism. We have laws and commitments but we have no measures of implementation. We need a range of institutional reforms to protect and promote human rights. It was said that a National Human Rights Commission would be established but by the end of 2000, the proposed Commission has not been established. Another step was taken by the parliament in 1980 that the office an Ombudsman would be established immediately, but 20 years have passed, yet we could not establish it. It is expected that a Human Rights Commission will be established and an Ombudsman will be appointed very soon. It is a matter of hope and aspiration from the point of view of general people of the country. If we want to make these institutions meaningful, the Commission must work impartially and the persons who would hold the posts must be impartial also. They must not have any political colour or identity.

- Trafficking of Women and Children

Trafficking in women and children is a crime and it is a Global issue. The newspapers regularly report news items on trafficking but the news published does not demonstrate the actual figure of trafficking. It has become a social crime. It has alarmingly increased in our country. Hundreds of children are missing every year due to trafficking. From a recent survey conducted by a research team of Khan Foundation, it is evident that every day about 1000 adolescent girls are coming into Dhaka city in hopes of finding a good job. But reality is that most of them are trafficked abroad. In Bangladesh during the last ten years an estimated 200,000 women have been trafficked. Most of the women and children are trafficked to India, Pakistan and in the Middle East. Most of the girl children are forced to prostitution and boys are engaged into horrific form of child labour, to work as jockeys for camel races.

Socio-economic condition of our country is responsible to a great extent for trafficking. In our society women and children are the victims of various cruel and inhuman acts like violence, torture, sexual abuse etc., Early marriage is a great problem of our girl child. Approximately half of the women in Bangladesh are less than 18 when they marry. Most of our children are living in the society in such a condition where they have no social security. They have no security their lives. All of these will ultimately lead the children to be the prey of human traffickers. Weakness in administration and feeble border security system is also responsible for this heinous act. Opportunist gangs of criminals utilize the helpless status of the people and commit such offences. Now it is time to fight against it for sake of human development.

- Institutionalization of Democracy

Institutionalization of Democracy is a basic need for human development. Without ensuring democracy at each and every level in the country we can't think about development. Democratic norms have a greater impact in the process of total development of a country. In our country, the journey to democracy was restarted in 1991 after nine long years of autocratic rule in Bangladesh during the 80's. We have seen three national level elections in 1991 and in 1996 yet the process of democracy seems to have been undermined again and again during the last decade due to apparent intransigent behaviour of the political parties in pursuing democratic norms and practices, thus demoralising to a great extent the high expectation of the people that was imbibed in people after the transition to democracy in 1991.

- Good Governance

Good Governance is a basic criteria in the event of human development. It has become an issue of concern today due to various reasons. It is said that in order to develop democratic culture in the country, to ensure people's rights, there is no alternatives to good governance. It entails two concepts: the ideal orientation of a state that works best to achieve self-reliance, sustainable development and social justice; and the ideal functioning of government that operates most effectively and efficiently.

- Transparency and Accountability

Transparency and accountability in the activities of the government, public servants and other employees are basic requirements for ensuring good governance as well as democracy and ultimate goal of these is to establish human development. We have experienced lack of transparency and accountability that can destroy any steps taken by the government.

- Basic Education

Basic education for all is a must to make human development meaningful. It is also a key element of human rights. So, ensuring this right is essential. Numerous efforts also have been taken for this goal. The compulsory primary education programme was not introduced until 1992, that is not until after 45 year after the British left India and also 20 years since Bangladesh became independent. The Programme was given a boost with the food for education programme for the poor rural children since 1993, thus trying to promote primary education on the one hand and eliminate child labour on the other. The government at the same time launched the Total Literacy Movement (TLM) through non-formal education. This is mainly for those people who are or were some how deprived of going to any educational institution. Primary education for children above 5 has got preference in this regard. From the UNICEF report, number of population falling under the definition of children is 55.9 million and 18% of them enrolled in the primary schools during 1990-99. But a great portion of these children could not continue their school life. A major portion of those children become drop outs. Students' dropping out have been a major problem at the primary level. Poverty, lack of guardians' awareness, lack of food are some of the reasons for such dropping out. This issue should be considered of great importance.

In 1994 the Government of Bangladesh also took the unique step of providing free secondary education for rural girls up to the school final level and also offering a special stipend to all rural girl students in the secondary level in the whole country thus creating the opportunity for the girls who

were lagging behind to catch up with the boys and take up their rightful place in the society. The programme has worked wonders and already a visibly high number of girls are attending secondary schools in the rural areas. It is expected that this farsighted programme would have a tremendous impact in achieving the rightful place of women in Bangladesh society in future decades.

- Primary Health Care

Ensuring primary health care to all is a basic requirement for human development. Without ensuring it we cannot expect sustainable human development. Supply of pure drinking water to all is very important in this regard. But now there is scarcity of pure and safe drinking water. At present, arsenic contamination of ground water in around 80 percent of the country is a major environment and health hazard. It is estimated that by the turn of the century, 20 million people are likely to be effected and 20,000 people could die each year due to arsenicosis. We must try to mitigate this situation. We need to ensure pollution free environment for better living.

- Unemployment Problem

Unemployment is a great problem in the way of human development. So, it has become an urgent requirement to create employment opportunities. But from Bangladesh's point of view we do not have so much employment opportunity in the government service and private sector. So, it is very important to create self-employment opportunity. Actually, if any one remains without any work or job, he becomes a burden to the society and also creates a draw back to human development. The government can play a significant role in creating self-employment opportunities for the educated young generation. They need a credit facility to run their business or small projects like poultry, farming, fishery etc.,

- Women's Empowerment

Women's empowerment is also a vital issue in the process of human development. The issue has a greater importance, as women constitute a total of about 50% of the country's population. Their empowerment can help to advance the human kind in a significant way. Simultaneously children must also get special care, as they are the future generation of the country. Women's political, social and economic empowerment are very necessary in human development. From our practical point of view; women are the disadvantaged and vulnerable group in the society. They do not enjoy equal dignity, honour and status with men. Their opinions are hardly evaluated. So, women's empowerment should be ensured. They should be involved in decision making process. We need to stress on major employment opportunities for their economic empowerment. They have to be involved in income generating activities. They should get credit facilities also so that they can create self-employment opportunities.

- Human Development in Wider Sense

However, as we are speaking about human development, we must consider the fact in a wider sense. To ensure, human development throughout the world, the world community must come forward. Now we are very much familiar with the term globalisation. The concept of "Globalisation" and Global Village" has become very popular but the inherent meanings of these have not been realized yet. Globalisation of all is needed to make sure of human development.

c) Conclusion

- Reduce the Gap between the Rich and Poor Countries

To overcome poverty and to eliminate the differences between rich countries and poor countries or developed countries and developing countries can be possible if globalisation of wealth, globalisation of technology and globalisation of manpower can be ensured. But reality is that the rich countries are not willing to accept the concept of globalisation where there is a question of globalisation of wealth. Recently a slogan is raised that “Krishak jabe she deshe, jomi ache je deshe” i.e. “the farmers will go to those countries, where there are plots of lands to cultivate.” But those concerned countries, where there are vast land to cultivate, do not welcome this concept. This is seen by the statement of Mr. Kofi Annan, the UN Secretary General. He said, “ the rich contries enjoy 86 per cent of the natural resources of the World, while 80 per cent of the world population who reside in the third world or in developing countries enjoy only the rest of 14 per cent of natural resources of the world. “ This situation should be changed. It should be considered that natural resources are not for the rich or western people only. These are for all.

- Nuclear Weapon is a Curse to Humanity

The developed countries use a huge amount of their annual budget in maintaining the stockpile of nuclear arsenals. This a a curse to humanity. The developed and powerful countries must also be committed to giving up this trend of perpetuating the nuclear weaponry, so should the few other developing countries and sign the Comprehensive Nuclear Test Ban Treaty(CTBT). They can contribute a lot to human development with the huge amount of money being spent on nuclear weaponry.

- Human Development in South Asia

However, we should consider the issue of human development with great care and importance. We need to stress on it and impose great priority. It is a matter of hope that several Non Government Organisations are taking some remarkable steps along with the government. Regional efforts are also being taken. South Asian Human Development Forum is one of them. Bangladesh is a partner of this forum at NGO level. In Bangladesh some like minded organisations that are working in the field of human development have become party to this Forum and its core group. Apart from NGOs, academicians, social workers, individuals from the civil society are very much interested to work in the field of human development. The issue has been sensitized amongst the concerned people. We have selected a set of issues for South Asia that are very much related to human development. These *issues* are Poverty Alleviation, Human Trafficking, Human Security, Health Care, Basic Education, Empowerment of Women, Youth Development, Human Rights, Good Governance, Migration Child Rights issues etc., Now the Forum is going to start its mission in a formal way.

5.3.3 Dr. Deepika Udagama, Senior Lecture, Faculty of Law, University of Colombo, Sri Lanka

HUMAN RIGHTS OVERVIEW

SYNOPSIS OF SPEECHES

Dr. Udagama pointed to the fact that South Asia remains the only region without its own human rights framework guaranteeing economic and social rights. Presently its human rights laws follow the norms of international laws and hence South Asian laws do not lend enough legitimacy to supreme state sovereignty. Rather, individual rights take precedence. Dr. Udagama argues this state of affairs has minimal impact in guaranteeing economic and social rights and hence legal protection is not guaranteed to the satisfaction of the aggrieved party. She stated that Sri Lanka and Nepal have ratified human rights treaties but Pakistan and India have desisted so far and this foot dragging does not augur well for the region which has to pay the price for this lapse by way of lack of support from donor countries in the fields of economy and development. Maldives has a poor track record on the Human Rights front and it is almost non-participatory with priorities not given to right to life, personal safety and gender equity.

5.3.4 Dr. Gamani Corea, former Secretary General, UNTACD, Sri Lanka

HUMAN RIGHTS

SYNOPSIS OF SPEECHES

Dr. Corea discoursing on human rights pertaining to social, economic and cultural situations said, the UN General Assembly on human rights had recognised rights of individuals, right to development and the development ambitions of third world countries. However, international donor agencies such as the World Bank or other multi fiscal institutions now stipulate fiscal discipline procedures to adhere to in order to acquire finance facilities for developing countries. These fiscal disciplinary procedures dictate to the developing countries to have ‘sound marco economic policies’ as interpreted by the institutions such as free market policy to receive monetary and technical assistance for development. This free market policy – the International donor agencies’ panacea for stagnacy or retardation in third world economy was linked to good human rights track record and Sri Lanka obliged in 1977.

He contended that social, individual and political rights cannot be criticised in isolation but linked together to obtain an overall picture of a developing country’s needs. Now the pressure is mounting on these international fiscal agencies to provide debt relief to poor countries by many developed countries. With this in mind, an attempt has been made by the UN to identify creditors countries, i.e. those classified as Highly Indebted Poor Countries (HIPC).

Dr. Corea pointed out that conditionality by fiscal institutions increase in direct proportion to decreasing aid. Further, the criteria for qualification to financial assistance depends on the country’s performance in the areas of per capita income, literacy rate, health and education. The World bank identified in the early 70’s, 20 of the developing countries as HIPC including Bangladesh, Nepal, Bhutan and Maldives in South Asia.

5.3.5 Mr. Desmond Fernando, President of the International Bar Association, Sri Lanka

HUMAN RIGHTS

SYNOPSIS OF SPEECHES

Mr. Fernando recommended certain changes in Sri Lanka’s labour laws given the fact the need has arisen for such laws following the 1977 open market policy. Special emphasis was placed on the right

to Supreme Court Justice for redress for workers and the justifiability of the violation of workers' fundamental rights. He highlighted the situation of internally displaced persons, particularly in the LTTE controlled or 'uncleared areas', whose right to health services, employment and education is violated since they have little or no access to these services provided by the government.

5.3.6 Dr. W. Selvakumaran, Human Rights Commission Lanka & Dean Faculty of Law, University of Colombo, Sri Lanka.

HUMAN RIGHTS (ROLE OF THE JUDICIARY)

SYNOPSIS OF SPEECHES

Dr. Selvakumaran speaking on the Human Rights Commission said the HRCs were of recent origin with New Zealand leading the way in 1978 followed by Nepal, Bangladesh, Pakistan and Sri Lanka and India setting up their national HRCs. He explained that HRCs engage in Human Rights awareness and educational pursuits, research and documentation activities and advise and assist the governments in the formulation of legislation and administrative directive and procedures compatible with human rights norms. HRCs can recommend the review of existing laws and administrative practices which deviate from Human Rights norms. Referring to the Sri Lankan Human Rights Commission, he explained the urgency of reviewing laws which systematically violate fundamental human rights such as the district quota system for university admissions and schools where it is not clearly defined, the inefficiency of mediation and conciliation an excessive powers for the police and armed forces in the detention centres where as recently as a few weeks ago, over 205 detainees suspected to be LTTE were brutally murdered in the custody of the government and the government's delay and lethargy in bringing to book the offenders who were custodians. The government also had to do away with the Human Rights Task Force which did not have any muscle legally or internationally and set up the HRC in conformity with UN regulations. He raised the point that the Sri Lanka constitution only provides for social and political rights instead of individual rights. Hence complaints of HR violations are lodged in different forums which cannot mete out proper justice due to confusion in these forums.

5.3.7. Ms. Ramani Muttetuwegama, Law & Society Trust, Sri Lanka

HUMAN RIGHTS OVERVIEW

SYNOPSIS OF SPEECHES

Ms. Muttetuwegama stated that fundamentally South Asia adheres to Human Rights Laws of International bodies. However, unlike other regions which enacted Human Rights laws to accommodate their specific criteria, South Asia lags behind in setting up of implementing bodies on Human Rights law peculiar its regions. In her opinion South Asia needs to formulate Human Rights law implementing bodies to address issues such as militarisation of regions, establishing of special courts and commissions circumventing normal, court procedures, violation of human rights by armed groups etc.

5.3.8 **Mr. Bradman Weerakoon, former Presidential Advisor on International affairs,
Sri Lanka**

HUMAN RIGHTS

SYNOPSIS OF SPEECHES

Mr Weerakoon commented in his opening remarks noted that he could identify a glaring paradox in Sri Lanka which has been often commented on. The country is home to a warm and friendly people and to the four main religions of the world and had experienced a peaceful transition from colonialism. There is steady economic growth with positive social development indicators. Yet, at the same time, there is a high intensity war with the most ruthless armed opposition in the world. The country records a high number of assassinations and youth insurgencies together with the second highest suicide rate in the world. In addition, it has one of the highest ratios of security forces to population combined with a very high degree of extra judicial executions.

The speaker stated that he hopes to use this complex background to explore aspects of Human Rights and Development. He identified five issues:

1. Accessing and ratifying Human Rights Conventions and protocols.
 - Signed most of the Conventions – ICCPR but the transformation of the policy into practise remains the problem.
 - Constitutional safeguards and Directive principles of State Policy.

Conventions/Protocols to be adopted

 - Refugee Convention
 - Additional Protocol 2 of the Geneva Conventions the rules of war.
 - Landmine treaty
 - International Criminal Court.
 - Refugee Convention of 1951
 - Anti Torture Convention
2. Emergency rule and derogation of human rights
 - endless extension that cannot be challenge in Court.
 - lack of freedom of expression and association
 - Media censorship and self censorship
3. Violence against Women
 - political violence –affecting women’s participation in politics
 - violence in armed conflict as IDPS and welfare centres.
 - domestic violence
4. Internally Displaced.Persons
 - in cleared and uncleared areas
 - UNHCR provides nominal protection;

- no Convention because they are the responsibility of the State.
5. The problematic situation in human development

Impressive achievements in health, education and income distribution but internal conflicts, violence, unemployment, migration and violations of human rights.

Contradiction and vulnerabilities

- IMR of 17 per 1000 but chronic malnutrition
- TFR of 2.3 but 1000 abortions daily
- Statistics which do not include the North and East.



COORDINATOR: MS. NAZMUNNESSA MAHTAB
RAPPORTEUR: MS. LAKSHMI SAMARAKOON

Much of the discussion was from the perspective of the countries represented within the South Asia gender network. The countries are: Bangladesh, India, Pakistan. Most of the speakers stressed the unequal position of women in the region and the urgent need to implement existing laws for the removal of such discrimination. Reference was made to studies conducted in 12 southern countries in a number spheres such as economic and educational.

The following presentations were made during the commission sittings:

5.4.1. **Ms. Nazmunnessa Mahtab, Ph.D. SAGN MEMBER, Bangladesh**
EMPOWERMENT OF WOMEN: BANGLADESH PERSPECTIVE

PART I - OVERVIEW

a) Introduction

The empowerment and autonomy of women and the improvement of their political, social and economic and health status is a highly and important end in itself. The full participation and partnership of both women and men is required in productive and reproductive life. It is essential for the achievement of sustainable development. (UNFPA, 1996).

Discrimination against women is still widespread. In most regions of the world, women receive less formal education than men, and at the same time women's own knowledge, abilities and coping mechanisms often go unrecognized. Violence against women remains a global phenomenon. There is continuous barrier to women's advancement in government, politics and business.

Over the past 20 years, World Conferences on Women, held in Mexico City, Copenhagen and Nairobi have contributed to the progressive strengthening of the legal, economic, social and political dimensions of the role of women. Women's access to education and proper health care has increased, their participation in the paid labor force has grown and legislation that promises equal opportunities for women, and respect for their human rights has been recognized (PFA, 1995).

International Conferences held during the last decade of the twentieth century, such as the UN Conference on Environment and Development (1992), the World Conference on Human Rights (1993), the International Conference on Population and Development (1994), the World Summit for Social Development (1995), have all highlighted at international level the various outstanding issues related to the improvement of the status of women. From each of these global Conferences emerged a more powerful recognition of the crucial role of women in sustainable development and protecting the environment; of the human rights of women as an inalienable, integral and indivisible part of universal human rights; of health, maternal care and family planning facilities, and of access to education and information, as essential to the exercise by women of their fundamental rights. (PFA, 1995).

b) Status of Women in Bangladesh

Though women constitute nearly half of the population of Bangladesh, their situation has traditionally been adverse. Accordingly to the various indicators, the status of women in Bangladesh is much lower than that of men. Traditional, cultural, social and religious values and practices have reinforced the lower status of women accorded to them in society and have limited their opportunities for education, technical and vocational training, employment and participation in the overall development process. (MWCA, 1997).

Socio-economic changes triggered by increasing rates of landlessness and impoverishment has had a profound impact on women's lives. Women are lagging behind men in all stages of education. The literacy rate for males is 38.9% and for females it is 25.5%. In 1996, the total enrollment of students in the primary schools was 83.60%; out of this, boys account for 88.90%, whereas girls 78%. Though the enrollment rate for girls has increased significantly, the drop out rate continues to be higher. Women are more disadvantaged than men in terms of access to health care and quality of nutrition and health care received. The life expectancy of the Bangladeshi women is 58.7 years, compared to 59.2 years for men. The nutritional status of girl children especially of rural girls is worse than for boys. As a result, girl child mortality, malnutrition, morbidity and maternal mortality are high. The health situation of urban women is worse than that of women in the rural areas. The urban population living in the slum areas do not have adequate sanitation, water and health facilities which results in poor health. The increase in rural-urban migration, unemployment and other factors have led to increase health risks for women including vulnerability to STD/HIV/AIDS. (CEDAW, 1997).

As regards employment, women in Bangladesh are far behind men. In Bangladesh about 46% of the population live below the poverty line of which two-thirds are females. According to the 1990-1991 Labor Force Survey the total constitute 31.1 million and women 20.1 million. Nearly 43% women are involved in agricultural activities but 70% of them work as unpaid family labor. This is because women's participation and contribution in the economic sector has not been adequately evaluated. Women's work in the family and household economy is not being recognized as a productive activity.

There are very few women at the policy-making levels of the government. Out of 330 MPs, there are only 37 women MPs, which includes 30 in the seats reserved for them. In the local government, about 13,879 women are serving as representatives in the Union Parishads of the country. There are about 1,09,334 sanctioned posts in the various government

The number of women serving at the top echelons of the administrative hierarchy is very insignificant. Out of 53 posts of Secretary, there are two women in this post. At present there are no women at the rank of Additional Secretary out of 59, and five women Joint Secretaries (Out of 257) and 8 women Deputy Secretaries out of 658.

The Government of Bangladesh has realized that there is a need to eliminate discrimination as it presently exists and also as it may present itself in the future. The above scenario has largely shaped the government's commitment to enhance the position of women. Hence it is recognized that development objectives such as accelerated economic growth, poverty alleviation and employment creation cannot be achieved without the contribution and participation of women. Among various development issues, Women in Development is recognized as a priority issue. Efforts are therefore, underway to bring women into the mainstream of development. The process of promoting women's participation in development received significant important in the Fourth Five Year Plan (1990-1995) as it stated:

Bringing women into the mainstreaming of development has been taken as one of the major strategies of FFYP....(para 8.1)

The Government of Bangladesh endorsed both the Program of Action of the International Conference on Population and Development (1994) and the Beijing Platform for Action (PFA) without any reservation. Both these documents contain recommendations that are basic to the survival, sustenance advancement and empowerment of women. The follow-up for implementation of the ICPD Program of Action prepared in 1996 highlighted measures to be adopted to reduce maternal mortality, improve women's reproductive health and reduce fertility. The government is also committed to ensuring the implementation of PFA at national level. The PFA emphasizes the strategy of mainstreaming of women's development into government policies and programmes. It states:

Government and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes so that before decisions are taken, an analysis is made of their effects on women and men, respectively. (para 202)

All these statements clearly indicate the commitment of the government of Bangladesh not only towards women's development but also that women's development is viewed as an integral part of the responsibilities of all line ministries. All ministries and agencies of the government have definite responsibilities for women's development because women are a major part of the total population that each agency exists to serve.

The constitutional guarantee of equality between women and men, the measures undertaken to reform the laws that relate to women, the ratification of international conventions for elimination of discrimination and violence against women, and the provisions in the successive plan documents to cater for resource needs to enhance the opportunities for women are all indicative of the commitment of the Bangladeshi government to eradicate gender discrimination.

In this Paper, I will first try to discuss and analyze the concept of **“Empowerment”**. Second, I will try to address the major strategies adopted by the Government and NGOs in removing discrimination and bringing about empowerment of women. The major issues to be dealt with are:

- Government Policies
- Constitutional Guarantees
- Legislative Measures
- Institutional cum Organizational Aspects of Empowerment;
- Education and Training as a means of Empowerment;
- Women in Politics and Decision-Making;
- Empowerment Towards Freedom from Violence.

c) Defining Empowerment

The term “Empowerment” has been overused in the 1980's, and as a goal of development has been gaining wider acceptance in the 1990s. At the International Population Conference in Cairo in 1974, Nafis Sadik, the Director of UNFPA, and Gertrude Mongella, Secretary General of the UN Fourth World Conference on Women stated that:

“Development should be centered on people, and above all on women.” (DSE : 1995).

In the Cairo debate the concept of empowerment conjured up the crucial importance of women and the necessity of empowering them.

Various definitions of empowerment for women exist. Empowerment is a process of gaining understanding of, and control over, the political forces around one as a means of improving one's standing in society. (Kinderwater: 1979). Again empowerment can be used for social mobilization, changing women's state of mind and gaining access to the bases of social power. (Friedman: 1992). Empowerment begins when women "change their ideas about the causes of their powerlessness, when they recognize the systematic forces that oppress them, and when they act to change the conditions of their lives." (Morgen and Bookman: 1988). They see empowerment as " a process aimed at consolidating, maintaining, or changing the nature and distribution of power in a particular cultural context."

d) Women's Empowerment Framework

Women's development can be viewed in terms of five levels of equality of which empowerment is an essential element at each level: -

- ◆ **Welfare:** addressing only the basic needs of women. Women are merely passive beneficiaries of welfare benefits.
- ◆ **Access:** involving equality of access to resources, such as, education opportunities, land and credit.
- ◆ **Conscientization:** recognizing that their problems stem from inherent structural and institutional discrimination.
- ◆ **Participation:** taking decisions along side with men. By organizing themselves and working together collectively women will be empowered to gain increased representation, which will lead to increased empowerment and ultimately greater control.
- ◆ **Control:** ultimate level of equality and empowerment. Here, the balance of power between men and women is equal, and neither party has dominance over the other. Women are able to make decisions over their lives, and the lives of their family members.

e) The Context and Dimensions of Womens Empowerment

Empowerment has numerous dimensions. Women's empowerment may be viewed as a continuum of several inter-related and mutually reinforcing components:

Empowerment is a process ----- we cannot give it to people. Women's empowerment may be viewed as a continuum of several interrelated and mutually reinforcing components:

- **Awareness Building** about women's situation, discrimination, and rights and opportunities as a step towards greater equality.
- **Capacity Building** and skills development, especially ability to plan, make decisions, organize and manage and carry out activities, to deal with people and institutions in the world around them.

- **Participation** and greater control and decision-making power in the home, community and society.
- **Action** to bring about greater equality between men and women. (Karl, 1995, 14).

In short, empowerment is a process of awareness and capacity building leading to greater participation to decision making, power and control and to transformative action. (Karl: 1995).

Certain research studies of the manifestations of women's empowerment revealed **six** general categories:

- Sense of security and vision of a future;
- Ability to earn a living;
- Ability to act effectively in the public sphere;
- Increased decision-making power in the household;
- Participation in non-family solidarity groups;
- Mobility and visibility in the community.

These categories are further grouped into **four** dimensions broadly as: -- cognitive, psychological, economic and political.

- **Cognitive Empowerment** refers to knowledge about, and understanding of, the conditions and causes of subordination.
- **Psychological Empowerment** relates to the development of self-esteem and self-confidence so that women are able to motivate themselves into action.
- **Economic Empowerment** is the ability to earn and control economic resources. Independence in controlling economic resources opens more options for addressing one's interests and often serves to improve one's status in social settings.
- **Political Empowerment** has to do with the ability to analyze one's world and to organize and mobilize for social change. It involves access to decision-making process involving the state, and including local government, voting, collective action and other means of having one's voice heard.

Thus it is evident that the dimensions of empowerment are inter-related. Different dimensions of empowerment are often recognizable in the same settings, situations and processes.

f) Empowerment Strategies

In the context of South Asian countries like Bangladesh, India, Nepal, Pakistan and Sri Lanka, the common strategies adopted for the empowerment of women includes the following:

- Empowerment through Awareness Building and Organizing Women;

- Empowerment through Economic Interventions, such as, Income Generating Activities and Entrepreneurship Development through Micro-Credit Programs;
- Empowerment through Development Programs, like Education and Training;
- Empowerment through Advocacy, Research and Support Services.

g) Towards Empowerment of Women in Bangladesh

- Constitutional Guarantees

The Constitution of Bangladesh guarantees certain rights and privileges to women fundamental rights. The Constitution of the newly independent country of Bangladesh was drafted in 1972. The clauses on women's rights and their basic freedom were ensured in the Constitution.

Article 27 of the Constitution states that "All citizens are equal before the law and are entitled to equal protection of the law."

Article 28 (1) of the Constitution states: The State shall not discriminate against any citizen on grounds only religion, race, caste, sex or place of birth.

According to Article 28(2) "Women shall have equal rights with men in all spheres of the state and of public life".

Article 28(3) states: "No citizen shall, on grounds only of religion, race, caste sex or place of birth, be subjected to any disability, liability restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

Article 28(4) states: "Nothing in this Article shall prevent the state from making special provision in favour of women and children for the advancement of any backward section of the population."

Again Article 29(1) states: "No citizen shall, on ground ofsex be ineligible for, or discriminated against in repent of any employment or office in the service of the Republic.

PART II
LEGISLATIVE MEASURES

To safeguard the various constitutional rights, the Government has enacted various women-specific and women- related legislation. Notable among these are:

- **The Child Marriage Restraint Act 1929, amended in 1984**, raising the age of marriage of a girl to 18 years from 15 years and that of a boy to 21 years and makes offences under this Act punishable.
- **The Dowry Prohibition Act 1980, amended in 1982**, forbidding anyone from demanding dowry, and punishing by fine and imprisonment.
- **Women and Children Repression Prevention Act 1995, amended in 2000**, to protect women and children against any type of violence.

a) International Conventions: CEDAW

Bangladesh has ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). The Committee for the Elimination of Discrimination Against Women noted with appreciation the emphasis given by the present government in Bangladesh on increasing literacy among women and girls aiming at achieving education for all by the year 2000. In its report adopted at the 17th Session of CEDAW held in the United Nations Headquarters in July 1997, Bangladesh presented the combined Third and Fourth Periodic Report where the Committee noted with satisfaction the existence of constitutional guarantee to equality between women and men as well as laws ensuring protection of women in Bangladesh.

The government has withdrawn reservations about some provisions of CEDAW, relating to personal rights such as family benefits and guardianship of children. The withdrawn reservations of Bangladesh pertain to Article 13 (a) and Article 16 (1) (b) of the Convention. Article 13 (a) gives women the right to family benefits. Article 16 (1) (b) says “State’s parties shall take all appropriate measures to ensure that men and women have the same rights and responsibilities with regard to guardianship, worship, trusteeship and adoption of children.

It is important to mention about four important policies / strategies adopted by the Government of Bangladesh as a follow-up of the Beijing Platform for Action.

b) Government Policies/ Strategies

- The Institutional Review of WID Capability of Government of Bangladesh.
- Declaration of the National Policy for the Advancement of Women.
- Formulation of the National Action Plan.
- The Fifth Five-Year Plan (1997-2002).

c) Institutional Review of WID Capability of GOB

The Institutional Review of WID Capability of the Government of Bangladesh was designed to assess whether the mechanisms, information, skills and commitment required to address issues of women's equality and development have been put in place within government, and to identify further steps that should be taken. The Institutional Review included nine studies, which were carried out in the period October 1995- October 1996. The Institutional Review was finalized at the same time as the GOB finalized its own Plan of Action to implement the commitments undertaken at the Fourth World Conference on Women in Beijing in 1995. The concerns addressed in the recommendations of the Institutional Review are closely related to those in the Bangladesh Plan of Action. The Plan of Action focuses on policy and program changes required to implement the commitments undertaken in Beijing. The Institutional Review focuses on the Institutional mechanisms or infrastructure required to achieve those changes in policy and programmes. It also aims to equip government officials and government agencies to continue to address issues of women's equality and development.

The **six** major themes of the recommendations are summarized below:

- A national statement of goals and responsibilities for women's development.
- A national focal point for women's development that can lead and motivate other government agencies.

- Central planning authorities that can take account of the rights and needs of women in an integrated way throughout the planning process.
- Line ministries and agencies capable of integrating women's development into mainstreaming sectoral plans and programmes.
- Increased women's participation in local government bodies and increased attention to women's development by all local authorities.
- Training institutes that are capable of assisting government officials to address their responsibilities for integrating women's development issues.

d) NATIONAL ACTION PLAN

The National Action Plan has the following goals:

- To make women's development an integral part of the national development program.
- To establish women as equal partners in development with equal roles in policy and decision making in the family, community and nation at large.
- To remove legal, economic, political or cultural barriers that prevent the exercise of equal rights by undertaking policy reforms and strong affirmative actions.
- To raise/create public awareness about women's different needs, interests and priorities and increase commitment to bring about improvements in women's position and condition.

e) National Policy for the Advancement of Women

The National Policy for the Advancement of Women, was declared by the Prime Minister, Sheikh Hasina, on March 8, 1997. The main goals of the policy are as follows.

- Establish equality between men and women in all spheres;
- Eliminate all forms of discrimination against women and girls;
- Establish women human rights;
- Develop women as human resource;
- Recognize women's contribution in social and economic spheres;
- Eliminate poverty among women;
- Establish equality between men and women in administration, politics, education, games, sports and all other socio-economic spheres;
- Eliminate all forms of oppression against women and girls;
- Ensure empowerment of women in the fields of politics, administration and the economy;
- Develop appropriate technology for women;
- Ensure adequate health and shelter to women;
- Provide housing and shelter to women;
- Create positive images of women in the media;
- Take special measures for women in especially disadvantaged situations.

f) National Plans and Women's Development

The First Five Year Plan (1973-78) did not visualize the role of women in economic development separately. In the FFYP, there was no Women Affairs sub-sector or any separate allocation.

In the Two Year Plan (1978-80), women's development, for the first time, was given due consideration. TYP allocated Tk. 10.56 crore for women's development programmes. The main emphasis of the TYP was on the fields of vocational training, agro-based rural development programmes, establishment of cottage industries, production and sales centres and creation of facilities for working women and their children. Tk. 4.62 crore was spent during the TYP period. So, utilization of allocation was 43.75 per cent.

In the Second Five Year Plan (1980-85) Tk. 31.00 crore was allocated for women's development programmes. SFYP emphasized on training and creation of employment opportunities for women. 204 skills training and production centres were established with the objective of creating diversified avenues for income generation of women. In the SFYP period Tk. 19.26 crore was spent. Utilization was 62.13 percent.

The Third Five Year Plan (1985-90) made more elaborate programmes on women's participation in the mainstream of socio-economic activities. In the TFYP a sum of Tk. 50.00 crore was allocated for Women's Affairs sub-sector. During the TFYP, under the women affairs sector around 60,000 women were trained in different vocational skills and other human resource development activities, around two lakh women were given non-formal education and around 20,000 women were provided with credit facilities for self-employment. Some special training facilities for women were also organized under different sectoral programmes. Tk. 19.01 crore was spent in the TFYP period.

The Fourth Five Year Plan (1990-95) The process of promoting women's participation in development received significant importance in the Fourth Five Year Plan(1990-1995) as it stated: **"Bringing women into the mainstream of development has been taken as one of the major strategies of FFYP....(para 8.1)** Women's development was into the macro framework for multi-sectoral thrust to bring women into the mainstream of economic development. To achieve this objective, general and specific strategies were identified to translate them into action and to ensure a conducive atmosphere for women's participation in the socio-economic activities. Ministry of Women and Children Affairs undertook twenty projects during the plan period

g) Fifth Five-Year Plan (1997-2002)

The goals and objectives of WID during the Fifth Five Year Plan are to:

- Promote equality between women and men in the sharing of power and decision-making at all levels.
- Promote changes in attitudes, structures, policies, laws and practices in order to remove obstacles to achievement of human dignity and equality in society, including the family, the community and the State.
- Promote equal rights of women and men in all spheres of development, in access to information, skills, resources and opportunities.

- Enhance the participation of women in political, civil, economic, social and cultural life.
- Promote economic self-reliance for women, and generate economic policies that have a positive impact on the employment and income of women workers in both the formal and informal sectors.
- Establish and transform state structures, and practices to enhance gender equality and improve the status of women.
- Establish appropriate institutional arrangements with necessary financial and human resources and authority at all levels to mainstream women's concerns in all aspects and sectors of development.
- Actively consider obstacles faced by members of disadvantaged groups in availing opportunities and services, in particular those suffered by women members of these communities, and take necessary steps to mitigate such barriers.
- Formulate and implement specific economic, social, agricultural and related policies and programmes in support of poor female households.

The attainment of these objectives requires a conscious pursuit of a gender redistributive orientation to the broad strategies adopted by the Plan. The strategies proposed for the attainment of the goals and objectives set out in the Fifth Five Year Plan are to target benefits to women in poverty reduction and public expenditure programmes; creation of opportunities for women in public employment; support for women's education and health; protection of women's legal rights and promotion of security for women; support services for women's employment; strengthening institutional infrastructure for women's development; and the development of a good research and database.

Compared with the Fourth Five Year Plan the allocation for the Women and Children Affairs sector has been significantly enhanced in the 5th Five year Plan i.e. from Taka 45 crore to Taka 336 crore excluding food assistance.

The increase in the number of projects in this sector clearly indicates the government's willingness and commitment to achieve the goal of women's development and empowerment through the implementation of the National Action Plan and the National Policy for the Advancement of women.

h) Institutional cum Organizational Aspects of Empowerment

National machineries on women

If we go through the Beijing Declaration we find that Institutional Mechanisms for the advancement of women has been identified as one of the strategic objectives. In this regard, emphasis has been placed on:

A national machinery for the advancement of women is the policy-coordinating unit inside government. Its main task is to support government-wide mainstreaming of a gender-equality perspective in all policy areas. The necessary conditions for an effective functioning of the national machineries include: Institutional mechanisms

or processes that facilitate, as appropriate, decentralized planning, implementation and monitoring with a view to involving non- governmental organizations and community organizations from the grass roots upwards. (Para 201...(b) page 116.(PFA)

In addressing the issue of national machinery for the advancement, the Ministry of Women and Children's Affairs has been designated as the lead ministry for the follow-up and implementation of the PFA. All ministries and agencies are required to integrate equality measures in their different plans, programs, and policy packages. Two mechanisms for inter sectoral coordination that are considered to be part of the National Machinery for women's development are the National Council for Women's Development (NCWD) and the WID Focal Point Mechanism. Another major coordination mechanism is the Inter-ministerial Advisory Committee for the Central Cell for the Prevention of Oppression Against Women and Children.

I) National Council for Women's Development (NCWD)

A 44 member National Council for Women's Development (NCWD) has been established consisting of Ministries and Secretaries from several line Ministries, public representatives and eminent individuals with the Prime Minister as the Head of the Council.

The responsibilities of NCWD are as follows:

- To ensure women's participation in socio-economic development work, the Council will formulate rules and regulations for the development work of different Ministries, divisions and other agencies and coordinate them;
- The Council will formulate laws and regulations to ensure women's legal rights and development and to prevent of oppression against women;
- The Council will also take measures to preserve women's interests in all areas in which women are active and ensure their participation and advancement.

j) Parliamentary Standing Committee for MWCA

A 10 member Parliamentary Standing Committee is functioning to review the activities of the Ministry of Women and Children Affairs on behalf of the Parliament. This is done on a regular basis.

INTER-MINISTERIAL COORDINATION AND EVALUATION
COMMITTEE

The National Policy for Women's Advancement envisages the establishment of an Inter-Ministerial Coordination and Evaluation Committee headed by the Minister for Women and Children's Affairs to monitor the progress of implementation of sectoral WID plans and programmes and submit quarterly progress report to the NCWD. Various government and non government women's development organizations and Ministries with WID Focal Points, will be members of this committee.

k) Ministry of Women and Children Affairs (MWCA)

The MWCA is regarded as the nodal Ministry for facilitating the tasks designed for the advancement of women. Its role focuses on national policy formulation, implementation of all programmes undertaken for the betterment of women in the society, especially addressing the needs of the rural poor, distressed, disadvantaged and deprived women; registration and coordination of women's voluntary organizations, collaborating with other agencies working on women's development issues and maintaining links with the international / donor agencies for women's development in the country. Furthermore, the Ministry is actively involved in the follow up of the Beijing Platform for Action (PFA), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Children (CRC) and the National Policy for the Advancement of Women.

l) WID Focal Points in Different Ministries

Since the Fourth Five-Year plan all the sectors and Ministries are responsible for incorporating women in development concerns into their development programmes in order to mainstream women's development. At present 47 WID Focal Points (WIDFP) and 47 Associate WID Focal Points in Ministries / Departments / Agencies are responsible for overseeing the concerns of women in the programmes of their respective ministries. They are responsible for formulating sectoral plans keeping in mind gender concerns, preparing lists of priority projects for women for inclusion in the annual development plans; reviewing and modifying on going projects with a view to incorporating adequate gender concerns in the sectoral programmes/ projects; ensuring gender sensitive reporting system; collaborating with other sectors and central agencies in order to achieve WID sectoral goals; and monitoring and reporting on their sectoral activities and constrains in achieving these goals.

m) Department of Women Affairs

This is the implementing arm of the Ministry of Women and Children Affairs. It operates through its headquarters at the national level and field based offices located at the district and upzillas. At the time of establishment in 1974, DWA offices were set up in 22 Districts and 160 Upzillas. At present the offices have been extended to cover all the 64 Districts and the Upzilla offices have been extended to include another 100 upzillas making a total of 260 upzillas. However, as per recommendation of the Public Administration Reform Commission 1996, all the Upzillas will be covered in phases. This Department is implementing all the projects/ programs / activities related to women's issues and also working for the dissemination and implementation of the National Action Plan (NAP), National Policy for the Advancement of Women and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

n) WID Coordination Committee at the District and Upzilla Levels

One important point to mention here is that all these bodies are established at the national level and they are responsible for overseeing the concerns of women in the programs of their respective ministries at the national level only. Thus with a view to implementing and monitoring women's development programs by the national departments/agencies and the NGOs at the regional and local levels and formulating development plans at the national levels based on needs assessment of the grass root levels, establishment of WID Coordination Committees at the District and Upzilla levels was important.

The WID Coordination Committee was established as an activity of the WID component of the project “Strengthening the Management Capability of the Department of Women’s Affairs.

All activities related to the establishment of WID Coordination Committees at the district and upzilla levels have been completed. In this perspective, an order has been issued on December 10, 1998, and circulated by the Cabinet Division to all the districts and upzillas in Bangladesh to form these committees. The Deputy Commissioner at the district and the Upzilla Nirbahi Officer (TNO) at the Upzilla will chair the committees at their respective levels, while the Women's Affairs Officer at the district and upzilla will act as the Member-Secretary and there will be 18 other members represented by officers of the different government departments, local government officials, NGOs, members of professional groups, civil society and the community.

The establishment of the WID Coordination Committees makes it evident that government's policy statement reaffirmed its aim that development activities reach the grass roots level and also called for monitoring of WID aspects in ongoing development programs from the national to the regional and local levels.

0) Women in Politics and Decision-Making

Political Participation is a major path to women’s empowerment, to increased decision-making power and greater ability to influence matters that affect their lives in the community and the larger society. In the broader sense, participation in politics goes beyond electoral politics, such as voting and election to public office. Women’s empowerment begins with her consciousness--- perceptions about herself and her rights, her capabilities and her potentials, awareness how socio-cultural, economic and political forces affect her. Women political empowerment and equal representation in all decision-making institution is a critical input in women’s struggle for freedom from patriarchy and subjugation. Increased political participation of women has been an important agenda both at the Nairobi Conference of 1985 and the Beijing Conference of 1995.

There is no doubt that, unless major measures are taken, numerous obstacles will continue to exist which retard the participation of women in political life, in the formulation of policies that affect them and in the formulation of national women’s policies. Success will depend in large measure upon whether or not women can unite to help each other to change their poor material circumstances and secondary status and to obtain the time, and energy and experience required to participate in political life. At the same time, improvements in health and educational status, legal and constitutional provisions and networking will increase the effectiveness of the political action taken by women so that they can obtain a much greater share in political decision making than before.” (NFLS, Para,33).

The Platform for Action adopted at the Beijing Conference reaffirmed that “Women’s equal participation in decision making is not only a demand for justice and democracy but can also be seen as a necessary condition for women’s interests to be taken into account. Without the active participation of women and incorporation of women’s perspectives at all levels of decision making, the goals of equality, development and peace cannot be achieved.”

From this broad and general view of politics and political participation I move to an analysis of the position of women in politics in Bangladesh. In doing this I consider the following areas of political life.

- The Legislature -- National and Local;
- The Party Arena;

- Women in Leadership Positions
- Women in Administration
- The Organizational Society.

k) National Parliament (JATIYA SANGSAD)

(i) General Seats

Jatiya Sangshad or the National Parliament of Bangladesh consists of 300 general seats filled by direct election from single member territorial constituencies. In the last Parliamentary election held in 1996, women candidates won from 5 electoral constituencies and captured 1.36% of the 300 directly elected or “general” seats. In 1991, women won 2.7%; in 1988, 1.3%; in 1986 1.7%; and in 1979 0.8% of the general seats. Thus it is clear that from 1979 to 1996 less than 2% of the candidates standing for parliamentary elections were women. .

During the democratic movement in 1990, women’s role in electoral politics achieved some qualitative changes. One important aspect was that the movement was led by Three Alliances, of which two were women leaders,----- Begum Khaleda Zia of the Bangladesh Nationalist Party (BNP) and Sheikh Hasina of Awami League(AL). in addition, a number of women politicians in both BNP and AL emerged on their own rights, through competition, efficiency and effectiveness.

(ii) Reserved Seats

Article 65, Clause 3 of the Constitution (1972) states ”There shall be reserved fifteen seats exclusively for women members, who shall be elected according to law by the members aforesaid..” However, in less than ten years time this number was increased by 100%, that is, 30. The term for the constitutionally guaranteed reserved seats for women expired in December 1987, and in 1988, the Parliament had no reserved seats for women. In 1990, the 10th Amendment to the Constitution re-inserted Clause (3) to Article 65 providing for 30 reserved women seats for a further period of 10 years from the first sitting of the next Parliament (that is, from April 5, 1991). As a result, 30 women were elected on March 30, 1991, to the 5th Parliament. (Chowdhury and Akhter, 1995). This provision will expire in April, 2001.

PART III

WOMEN’S PARTICIPATION IN LOCAL GOVERNMENT

At present there are two distinct patterns of local government institutions in Bangladesh----one rural and the other urban. The paper is confined to the situation of the rural local government. The Government of the People’s Republic of Bangladesh established a Local Government Commission in 1997. The Commission recommended a four-tier local government system: Gram Parishad, Union Parishad, Upzilla Parishad and Zila Parishad.

The Union is the second tier of local government. On an average, an Union comprises of 10-15 villages and includes 15-20 thousand people. There are 4,479 Union Parishads in the country.

According to the Local Government (Union Parishad) Ordinance 1983, an Union consisted of one Chairman, nine elected members and three nominated members. The Union Parishad Act 1993 had brought some changes in the composition of Union Parishad. The Union Parishad shall be divided into nine Wards and nine members, one from each Ward shall be elected by the voters of the

concerned Wards, and with regard to the female members, instead of nomination they were to be indirectly by the Chairman and elected members of the concerned Union Parishad.

During the last two decades, four local government elections were held in Bangladesh (1973, 1977, 1984 and 1992). According to Article-9 of the Constitution, “The State shall encourage Local Government institutions composed of representatives of the areas concerned and in such institutions special representation shall be given as far as possible to peasants, workers and women”

To implement this constitutional provision and on the basis of the recommendations of the Study on the Institutional Review of the WID Capability of GOB, 1996, and the Local Government Commissions Report, 1997, it is important to mention that for the first time in the history of the country direct election for women representatives was provided in the local government tier, the Union Parishad.

The elections to the Union Parishad took place in December 1996. The numbers of voters were 50 million. About 210,334 candidates including 45,000 female candidates contested in the Union Parishad election. A total of 13,000 women candidates were elected in the election to represent women’s reserved seats. (The Daily Janakantha, Dec, 15, 1997).

a) Women in the Party Arena

The role and involvement of women in political parties may be viewed as members, as party workers and as political leaders. Although there are few women in leadership positions there is limited involvement in party hierarchical structures. According to some research findings,” women render significant contribution during election campaign in organizing meetings, processions, rallies, etc. (Chowdhury, 1985). Although Bangladesh has many political parties, only 12 parties had women as candidates for the 1996 Parliamentary election. Generally all parties are male dominated.

b) Women in Cabinet (Leadership Positions)

Women in Bangladesh have had limited and restricted access to this highest decision-making body. Their entry into higher position has depended on the wishes of male political bosses and elites. In Bangladesh there have been cabinets without a single woman member. Sometimes even the Minister for Women’s Affairs was a man. This post was created during 1978-79 by the Government of late President Ziaur Rahman. A male politician presided over the Ministry for some years during the Ershad period and even under the Prime Ministership of Khaleda Zia, until recently, when a women state minister was put in charge of that Ministry. Since independence there have been only four women politicians who have held cabinet posts till now. Most of the time they represented tokenism rather than any recognition of their talent. This has been demonstrated by the fact that women ministers were employed only in the feminine or soft issue areas such as women’s affairs, culture and social welfare. Such powerlessness of women politicians demonstrated a correlation between the weaker status of women in the political party, electoral constituency or parliament and even more weaker representation in the council of ministers. As a result women had really an extremely limited role to play at the higher level of political, governmental, or executive leadership. However, under the present regime, although the number of women holding positions of Ministries has not increased, they are placed in charge of some important areas, such as food and agriculture and environment, which were always assigned to men.

Women’s participation at the highest level could be enhanced by taking advantage of certain specified constitutional provisions. The constitutional provision for technocrats’ quota was first introduced under the Fourth Amendment of the Constitution. Under 58 (3) article of the Amendment there was

no ceiling to the appointment of nominated ministers (who are not MPs but eligible to contest in the election). Subsequently, article 58 (4) was incorporated in the constitution, which stipulated that 'no more than one-fifth' could be appointed in the council of ministers. Thereafter article 56 (2) of the Twelfth Amendment of 1991 further lowered the ceiling of the nominated ministers to 'no more than one-tenth'.

Hence there were ample opportunities for the women to be recruited in the council of ministers from this technocrats' quota. But unfortunately, not a single woman from the days of late President Zia till now under the Prime Minister ship of Begum Khaleda Zia, has been appointed from this quota in spite of the fact that there are plenty of qualified women technocrats in the country, and it has become the prerogative of the male technocrats. The male members often cite the existence of women leadership in the government and in the opposition in order to camouflage the minimal women representation in the highest decision-making body of the country.

The Prime Minister of Bangladesh is a woman. The leader of the Opposition in the Parliament is also a woman and it is significant that both have ascended to the position of leadership through the process of direct election. On the basis of research studies, training programs conducted on the newly elected women members and Chairpersons who have assumed office at the Union Parishad through direct election, it has been found that despite persistent constraints these women are trying to overcome the obstacles and ascertain their capacity to function as effective leaders.

c) Women in Administration – Present Situation

The participation of women in political decision-making and administration remains very slim. Currently very few Bangladeshi women can be found in positions of political leadership in both central and local government structures, and even in the administrative hierarchy. As a result of this lack of opportunities to intervene at the policy and decision making level, women have a minimal impact in the planning, management and implementation of policies. One needs only to look at the few number of women holding senior positions in the top echelons of bureaucracy to have an example of their serious lack of representation.

Since 1982, women have been regularly appearing at the Bangladesh Civil Service Examinations and getting recruited in all the 29 Cadre Services. However, the position of women vis-a-vis men in terms of number is still insignificant. The number of women holding Class I positions in ministries / divisions, departments / directorates and autonomous bodies / corporations is only 5,066 compared to 73,619 men. (Khan, 1995). This means that only 6.44% women are occupying Class I positions compared to 93.56% men.

The situation of women in 29 cadre services is by no means satisfactory. Except for two cadres, i.e. BCS General Education and Health representation of women is very poor, because until the 1980s, women tended to join government service either in the education or health sectors. It was not until the last decade that women began to join the other cadres in the Bangladesh Civil Service. Women's representation at the higher levels of the civil service, i.e. Secretary, Additional Secretary, Joint Secretary and Deputy Secretary are almost negligible.

After two decades of the introduction of the special quota system for women in the government services, the overall situation of women remains below expectation. At the regional level (district) no women have been appointed or promoted or posted to serve as the head of the district administration. However, below the district there is the upzilla, where very few women have been given the post of TNO (Upzilla Executive Officer) – the head of the Upzilla Administration.

d) Women in Organizational Society

Women have always played a crucial role within the voluntary sector and within certain very important organizational types like independence movement and among social and humanitarian organizations they have dominated. In organizing activities for women, children and youth, women have also been far more important than men. NGOs like BRAC, PROSHIKA, and CARE, and women's organizations such as, Bangladesh Mahila Parishad, Sammalita Nari Samaj, Nari Progoti Shangha and Nari Uddog Kendra have been involved in promoting women's political participation through voter education and direct support for candidates during the Union Parishad election of 1996.

In Bangladesh women perform within strict rules of particular structure, norms, values and attitudes that restricts women's participation in development or political activities.

The reserved seats for women through indirect elections have failed to prove effective either in respect of representations or as a vehicle for empowerment. It is true that adequate women's representation in the National Parliament is essential not only for ensuring political participation in the democratic process but also for realizing the objectives and goals of development in general.

In this regard, I would like to recall that one important area of concern for women in politics at the Beijing Conference, was that, **Political Participation of women is the basis of leadership and power.**

The Beijing Platform for Action also affirmed that women have the equal right to participate in Governance and, through that participation, contribute to the redefining of political priorities, placing new questions on the political agenda and providing new perspectives on mainstream political issues. The platform defined two strategic objectives under this critical area: --

- ◆ To ensure women's equal access to and full participation in power structures and decision-making.
- ◆ To increase women's capacity to participate in decision-making and leadership.

As we know that the term for the reserved seats in the Parliament will expire after April 2001, feminists groups, women's organizations, social workers, professionals civil society have been active to ensure that the Amendment takes place soon. .

On the basis of Dialogues, Seminars, Workshops Meetings, Rallies and Opinion Surveys conducted on this particular issue the main proposals that have been put forward from different sectors focused on two aspects. These are:

- Number of members and
- Mode of Election.

Regarding numbers the following suggestions were made:

- 100 reserved seats for women in the Parliament;
- 150 seats for women;
- Political parties to nominate at least 10% of the total seats of the Parliament from women;
- 64 reserved seats to be represented from 64 Districts of the country.

On the question of mode of election all concerned agreed for Direct Election.

Since we are not very far away from the expiry of the time and as it is being difficult to reach a consensus regarding as to what should be the terms and conditions of the women seats, it is extremely important to consider the seriousness of the issue by all concerned parties to reactivate their policies, programs and strengthen their movement for greater mobilization, motivation, lobbying and advocacy with the appropriate and relevant sectors so that the women's interests of the country are represented and fulfilled.

PART IV EDUCATION AND TRAINING OF WOMEN

The value of basic education, both as a human right and therefore an end in itself, and as a key to securing progress in all aspects of development, is already internationally recognized. Education is widely referred to as a key to women's empowerment and the removal of gender discrimination. The Beijing Declaration also had as a central tenet the importance of education to women's empowerment and equal participation in development, and the International Conference on Population and Development in Cairo in 1994 emphasized again the importance of education in ensuring access and use of reproductive health services.

The Constitution of Bangladesh guarantees children the right to free primary education. As a result of increased political commitment in Bangladesh during the past decades, embodied for example in legislation making primary education compulsory and the drawing of a National Action Plan for Education for All in 1995, enrolment rates in Bangladesh have increased. In addition, various innovative programs have been undertaken to increase the rate of female education and reduce gender disparity. For example, Food for Education, Stipends for girls upto grade eight, and free education upto grade twelve, and reservation of 60% posts in primary schools and 100% posts in satellite schools for female teachers are worth mentioning.

PART V EMPOWERMENT TOWARDS FREEDOM FROM VIOLENCE AGAINST WOMEN

Ever since the depth, magnitude and the systematic pattern in the occurrence of violence against women began to be documented, various strategies to counter the issue have emerged. The Government of Bangladesh has responded to the continuing prevalence of violence against women by setting up a review commission to look at the laws, policies and program interventions for the elimination of violence against women. Women and Child Repression Act 2000 has been passed. A multisectoral project for the Prevention of Violence Against Women has been implemented since October 2000. This will set up a One- Stop Crisis Centre to deal with all aspects of violence. There is also a private foundation that has been set up. This foundation known as the "Acid Survivors Foundation" seeks to provide for the treatment and overall rehabilitation of acid survivors.

PART VI NGO INTERVENTIONS

Various women's organizations and NGOs were very active in the phase leading up to the Beijing Conference. A number of them participated very actively in the NGO Forum and some were accredited to the Conference. As a follow-up to Beijing some organizations have undertaken new programmes while others have strengthened or revised their existing ones. The areas of concentration include violence against women, human rights (including training and advocacy related to CEDAW), gender training, political participation and empowerment, health (especially reproductive health), and the girl child. Among the strategies adopted by these organizations are networking with international, national and local organizations; advocacy and lobbying with policy

makers; training; media mobilization and research. In this perspective the work of a number of NGOs deserves special mention. For example,

- Brac, Grameen Bank, ASA and RDRS are working for poverty alleviation through micro-credit programs.
- Nari Progoti Sangha and Mahila Parishad are interested in enhancing the political participation of women.
- Women for Women, Nari Pokho and Ain-O-Shalish Kendra have taken Violence Against Women, provision Of Legal Aid Services and treatment of acid burns as their major concerns for removing gender disparity and promoting empowerment of women.
- BNWLA, Bangladesh Mohila Ainjibi Samiti and Mahila Parishad are working in the area of Trafficking, rescuing and rehabilitating child and women prostitutes.

a) BEIJING + FIVE

Beijing + Five – Women 2000: Gender Equality, Development and Peace is the Special Session of the United Nations General Assembly to review and assess the implementation of the Nairobi and the Beijing documents of women and consider actions and initiatives for the year 2000 and beyond for the 21st Century, held at New York during June 5-9, 2000.

The Beijing Declaration and the Platform for Action, adopted unanimously at the Fourth World Conference on Women by representatives from 189 countries, reflected a new international commitment to the goals of equality, development and peace for all women everywhere. The Platform for Action is a powerful agenda for the empowerment of women. It called for the integration of gender perspectives in all policies and programs. It focused on concrete measures to address the critical areas of concern worldwide. (PFA, 1995).

The Platform, divided into six chapters, identified 12 critical areas of concern, considered to represent the main obstacles to women's advancement. It defined strategic objectives and spelled out actions to be taken over the next five years by Governments, the international community, non-governmental organizations and the private sector for the removal of existing obstacles.

The Platform was further reinforced in the Beijing Declaration. It reaffirmed the commitment of Governments to eliminate discrimination against women and to remove all obstacles to equality. Governments also recognized the need to ensure a gender perspective in their policies and programs.

The Platform, divided into six chapters, identified 12 critical areas of concern, considered to represent the main obstacles to women's advancement. It defined strategic objectives and spelled out actions to be taken over the next five years by Governments, the international community, non-governmental organizations and the private sector for the removal of existing obstacles.

b) The Promise

As soon as possible, preferably by the end of 1995, Governments, in consultation with relevant institutions and non-governmental organizations, should begin to develop implementation strategies for the Platform and preferably by the end of 1996, should have developed their strategies and plans of action. This planning process should draw upon persons at the highest level of authority in government and relevant actors in civil society. The implementation strategies should be

comprehensive, have time-bound targets and benchmarks for monitoring, and include proposals for allocating or reallocating resources for implementation. Where necessary, the support of the international community could be enlisted, including resources.

Today after five years the time has come to make a stock taking of all that has been done to implement the PFA.

c) Performance in the Critical Areas of Concern

With regard to the twelve critical areas of concern it is important to mention here that although the Government has taken positive steps in all these areas, it is worthwhile to mention about the significant achievements that have been made in the following. For example, to deal with the problem of poverty alleviation micro-credit programs have been introduced in a comprehensive scale. With regard to Violence against Women, Women and Child Repression Act,2000, has been passed. A multi-sectoral project for the Prevention of Violence Against Women has already been implemented by the Department of Women Affairs and a project on Child Trafficking has been finalized and approved. In dealing with women's rights the Government has withdrawn reservations from Articles 13 (1) and 16 (1) of CEDAW. With the signing of the Chittagong Hill Tract Peace Agreement, the Government has taken steps to undertake development project for the comprehensive development and empowerment of women of the Chittagong Hill Tract. To increase the participation of women in Politics and Decision-Making, the Government has provided for the direct election of members of the Union Parishad and more women are being brought in the highest level of decision-making. In order to strengthen the Institutional Mechanism, a continuous organizational structure has been established from the national level down to the Upzilla. This will ensure effective coordination in the implementation of activities for women's development thus leading to the empowerment of women.

d) International Community Support

All the UN Agencies in the country are privileged to work together in the national effort towards advancement. The UNDP and WFP are providing assistance for poverty alleviation; UNESCO working for education of women; UNFPA, WHO in the health sector; ILO for rural employment generation; UNICEF, UNDP for Violence Against Women and Trafficking. In addition, other donor agencies like CIDA, DANIDA and NORAD are providing assistance to the MOCA to undertake projects for strengthening the institutional capacity, policy advocacy and training. At the policy level International Development Partners and Local Consultative Group are co-operating and co-ordinating with the Government and NGOs to meet the challenges.

e) GO-NGO Collaboration

We are all aware that both the Government and the NGOs have been engaged in the preparation of the stock- taking process in what have been achieved in their respective sectors in the areas of women's development. The process started in May, 1999 with the formation of the National Committee on Beijing Plus Five (NCBP), composed of a coalition of 350 NGOs, and in July,1999, another coalition-- the National Committee on Beijing Plus Five Review (NCBPR) was formed by ADAB Association of Development Agencies) with 1400 NGOS, members of the civil society, and other professionals

f) CONCLUSION

Before concluding, it is significant to mention four key points stated by the UNICEF representative at the Consultative Meeting held on May 23, 2000.

- Gender Equality should start early. Boys and Girls should be respected and cared for from the earliest childhood.
- Girls rights and women's rights are interdependent.
- The rights of the children cannot be achieved without achieving the rights of the girl.
- Community participation should be enhanced to end violence against women and prevent HIV.

United Nations is committed to Gender Equity and Gender Equality. However, without empowerment of women Global peace cannot be achieved. It is therefore, important to identify what needs to be done, who needs to be provided assistance, what are the persistent challenges and emergent trends in achieving the goals of Equality, Development and Peace. We should all proceed in a collective way towards the advancement and empowerment of women.

REFERENCES:

MWCA : Combined third and fourth periodic report in accordance with Article 18 of the Convention on the Elimination of all forms of Discrimination Against Women, June 1997.

UNFPA : Programme of Action adopted at the ICPD, Cairo, September 1994.

United Nations : Platform for Action and the Beijing Declaration, New York, 1996.

5.4.2 Ms. Geeta Menon, Stree Jaqruti Samiti, India WOMEN EMPOWERMENT

“This struggle is not for myself alone. It is a struggle for all women who have been wronged. I will continue to fight.”

These are words which define Bhanwari Devi, from Rajasthan. Bhanwari Devi is no ordinary woman nor can she be called a victim of gang rape. She is a symbol of women’s unfinished battle against injustice and oppression, she is a beacon of hope for the millions of oppressed women in India.

Rape has always been a weapon in the hands of the rich, politically influential upper caste Hindus to control the lower castes and Dalits. When Bhanwari Devi, a potter woman tried to stop child marriage within the Gujjar community, she was gang raped in front of her husband. She refused to be quiet about it and lodged a complaint. But the police refused to take action, the Government punished her although she was acting on their behalf as a Village Social Worker. Her determination and support from other women’s organisations led to the culprits being dragged to court. In her words, ‘Why should I be ashamed of speaking out? It is they also ought to be ashamed of their deeds’. The deep set patriarchal, casteist mentality of the judiciary was exposed when the Sessions Court acquitted the rapists. The judgement was biased and in favour of the upper castes. And the local political party took out a procession to celebrate the acquittal of these five rapists (BJP)! Meanwhile, in her village the upper caste panchayat imposed a social boycott on the family. Bhanwari Devi may have lost the battle, but has won the war – in proving to be an inspiration to all other women in the country.

a) Zehra Cyclewalla: A woman’s saga of courage against bondage. A heroic struggle against the fundamentalist clergy within her own Bohra community. Zehra and her mother were persecuted in the most despicable manner. Social boycott was imposed on them. Suddenly, children in the street would stop greeting you, shop keepers would not transact with you, neighbors would not talk. Even they tried to stop the mother’s burial – Why the Social boycott? Because Zehra dared to oppose the fundamentalist Syedna, she refused to become a slave of religious orthodoxy.

These inspiring women are just a miniscule of the empowered women who are emerging in modern India. Besides individual examples, we have the examples of women collectively struggling and fighting against caste atrocities (Bihar, UP communal and fundamentalist forces (Bombay Surat) colonialism of the new brand by the Multinationals and Corporates, against rape, sexual harrassment, dowry etc.

These examples of empowerment are more exemplary and inspiring as they are happening in a society that is constantly disempowering women. Modern Indian Society is a mosaic of contradictions. It has won acclaim for giving to the world three beauty queens, while this Society has not been able to protect the lives of those invisible women whose sweat and tears are hidden behind the make up of these beautiful women. These hidden women, the dalit, the landless, the agricultural labour, the garment workers, whose stories are not part of history – are those women whose hands spin and weave the brocaded silk and Muslim slaves, whose sweat and tears produce the fragrant oils and scents that perfume the bodies of the rich and wealthy, whose labour and toil creates the feast that our modern day memsahibs dine on.

5.4.3. Ms. Sheema Kermani, Tehriki –E– Niswan, Pakistan WOMEN'S EMPOWERMENT

The political nature of women's condition has only rarely been recognised and never fully understood. The present position of women in our (Pakistani/ south Asian) society continues to remain arbitrary : the myth and magic which her person inculcated are still rudimentarily observable in our ideas on modesty and the way in which she dresses.

Her " Sacred " position diminished with the evolution of primitive religion and her "Magic" was reduced to a system of anatomical taboos. Intensified Preoccupation with private property and wars of aggrandizement asserted the superior muscular strength of men, who began to subject women as child bearing and domestic vessels. Patriarchal dominations, through sheer force of arms, grew and spread and was intensified rather than arrested by man's inability to rid himself of deep-rooted fears relating to menstruation and childbirth. These grew more obscure and insidious the less he lived in harmony with the female principles of life.

Ignorance of the motivation which prompts men to actions overtly connected with religion, politics and social life hampered succeeding generations of men and women from an accurate clarification of their relationship or potential. Women were stringently conditioned to believe themselves to be intellectually and spiritually inferior, or at least enjoined to submission by their physical dependence on man for protection (protection needless to say from himself and his kind). Despite these pressures which were very often reinforced by direct and brutal measures, woman somehow managed to bring herself and her daughters, through to the present century without moral capitulation or loss of identity. She managed this feat alone since little help was forthcoming from religion, government or husband; and for a slave caste in all but name her achievement owes much to her character.

Women are without bombast. They make art so well by simply living; the insecure male excluded them and set up his cheap artifacts in their place. The facile identification of physical strength with mental strength, virility, creativity etc. is an example and bears no relationship to estimates in other creatures (the unforgiving elephant is stronger than a man, but a mouse is "shrewd" and an owl "wise" etc.). Men with sensibility hid their 'femininity' by becoming artists and believing art to be a male prerogative they were assured (so long as no one called their work effeminate). And once men had divorced their psyche from the female principle which is central to generation and well being, to humane understanding and development, they lost touch with reality.

Pakistani society is one of those rare societies where there is not only political and social repression, but a strange and degrading form of cultural repression is inflicted on the people, specially on women.

I would read out a poem which illustrates my point:

*" Sing! Let us sing out,
Sing out again so our hearts may burst into flame
And our burning blood may finally melt thee chains
So that in the depth of the blackest night
The sun shines forever.
Here they come with their sticks
In the glacial silence
In the bolted cell
Their bloodshot eyes rivet on us
They hurl threatening words,*

"Who's the bitch who had the nerve to sing ? "

*Mute rage engulfs our hearts
Our retort:
A willful silence.*

*After vain threats and questionings
Blows rain down.
So much flesh is torn
Over all the body, so much pain!*

*Then my sister
You stood up proud
Rising above the pack of killers
"Down with terror! Down with the brutes ! "
Hand in hand
Shoulder to shoulder
A human wall
Will not give way.
Scarcely have they turned on their heels
Our laughter burst out more brightly
Our voices rise more sweetly
More harmonious together
With a stronger beat
Defying the impotent rage of the guards.
Such power in such frail bodies -
Does it come from magic ?*

*The next day reprisals
Aged mothers, little sisters barely thirteen years old
Beaten with the rest - Just for having sung.
"Who led the singing ? "
Answer : a willful silence.
Cornered between the wall and the hard ground
They fell unconscious.*

*Awakening !
Into their ears glides the sweet lullaby of an elder sister
Like the voice of the native village.
Suddenly on your trembling lips
Blooms the rose of a first smile
That no chains nor shackles can imprison ! "*

To me this poem embodies all that I want to say. It is women themselves who can rid themselves of their imprisonment and their shackles. The strength lies within ourselves and we have to find it- once we find Our strengths nothing or none can stop us from reaching our liberation.

To me development does not mean only economic uplift but I would like to see it in a more holistic way. Do we want only materialist development ? Have we no interest in spiritual and political development ? How can we address the question of literacy if we ignore the question of what there

is to read? So what I propose is that cultural development is central- meaning that people (men and women), need the time and space and access to means of cultural expression to be able to articulate their own social values. This process is as necessary to overall development as roads and wells and health-care. And it is precisely this that has been totally ignored in the South Asian context., inspite of a very rich and varied cultural heritage.

We as South Asian women must insist that we have to liberate the mind and create cultural conditions that would assure the maximum realisation of the human potential. Liberation is the expression of the oppressed people's aspirations and "the conquest of true freedom leads to the creation of a new human being and a qualitatively different society " .

It is this "cultural action for freedom ", that is the impetus of our work in the women's movement, in fact for all our work for women's empowerment through the performing arts.

In Pakistan's present context, the power of the theatrical forms is evident from the fact that political authorities do not allow the performing arts to flourish . In fact, such art forms are suppressed at every level because the establishment is not only suspicious but threatened by the performing arts. Performers of these arts are required to obtain special permission, submit their work for censorship and inform the police and taxation officers in order to perform in public spaces. This bureaucratic stranglehold indicates that public authorities view theatrical arts as subversive of the social and moral order. Socially meaningful art can be and often is subversive. The "truth" as expressed in the performing arts is subversive of the order created by those who maintain power and domination by strangulating forces of life represented in aesthetic expression. While theatre is discouraged, dance is banned and this is reflective of the level of fear that dance instills among those who represent the forces of death, for example, the military and the mullahs, in the form of the fascist state.

We the South Asian women at the People's Summit must insist that we create a culture for the pursuit of knowledge and happiness and attempt to discover the meaning of life.

5.4.5. Ms. Chitra Ghosh, SAGN, India

EMPOWERMENT OF WOMEN: AN APPROACH

Samuel H Beer, the renowned Political Scientist says, “ the concept of development recognises the importance of the time dimension”¹² That is, at a point of time, progressive development is a moving away from a particular point – generally moving forward – moving towards improvement. This movement has to create an improved position – create empowerment. Social movement is a historical process as no society remains static. It either progresses or regresses; it has to be assured that only the former happens. So far as societies and human beings are concerned, how and where do we begin? We have to start at a point, from which past behaviour of a people or a group has to be studied. Hence, basic data will have to be collected as future is built on the past. Cultural, social. Political and economic behaviour – and changes should signify progressive movement, moving towards, as far as women are concerned, to their enrichment and empowerment.

In Eastern mode of thinking and behaviour women have never likened them to be equals of men, neither did they made any concreted effort to equalise their position with men. They wanted, and want, their rightful just and equitable position in society, which in many cases has not been achieved.

¹² Beer Samuel H – Modern Political Development
Beer Samuel H – Modern Random House N Y 1974

Nevertheless, it took quite a time and mental preparation for the idea to be accepted and realised by women themselves. It is also true that the outstanding protagonists for women's emancipation in India were men, Inter-alia, like Rammohan Roy, Gandhi and Tagore.

The root cause of this mal adjustment is the strong patriarchal nature of our society. As such, women's position has been secondary to men. Any shifting in this balance is regarded to upset the naturally existing one. Gandhi tried to break the social mores and superstitions by drawing women out of their homes. He also vehemently opposed the caste system existing in the Indian Society. The oppressed according to him, were the subordinate castes and women, both equally. Tagore went one step further – with casteism, antiquated beliefs and superstitions, he added religious fanaticism¹³. So the cleansing process faced challenge from existing social and political structure; religious scriptures; mode of acquisition of wealth and its use, all of the above determinants of power; cultural mores and behaviour patterns.

The dependency of women and their powerlessness in decision-making, becomes apparent when their participation in the political life of the country is taken up; India has only 7.8% women representatives in the Parliament. Representation in the cabinet a mere 8.57% compared to that of Gambia which is as high as 30.8% and in Antigua 17.6%. But strategic action have been taken to increase in critical mass of women in decision-making, the impact of which is apparent in the context of changes brought about in sharing power in local government. India here ranks 3rd with 33.5% representation of women¹⁴. The induction of women in the Panchayati Raj has shown success and though it has been criticized as still giving some men the opportunity to hold on to power behind the scene, the charge is not universally true; as there is a “committed and systematic approach to mainstream gender in areas of education, health, rural, urban and community development”. Lack of progress is due to low public awareness of gender issues, strong traditional practices and values, the caste system and religion – but more because of lack of cooperation from key stakeholders. Gender equality policies, to be effective have to go “beyond words to action at policy, planning and operational levels”¹⁵. Political commitment has to ensure resource availability; gender issues being reflected in the national budget. Women's component plan wants that no less than 30% of the funds and benefits have to be used for women, as availability of alternative employment must be seen as “viable strategy” of the governments concerned.

Moving towards this goal should not be different as the Constitution of India grants total equality to women within the functioning legal framework. The paradigms of social development have been swiftly changing with greater attention to gender issues, for women constitute half of the country's population¹⁶.

The Department of Women & Child Development of the Government of India was set up in 1985 as a part of the Ministry of Human Resource Development. It gives the much needed impetus to the holistic development of women and children. An example, the programme of Integrated Child Development Services Scheme (ICDS) started in 1975-76 in 33 blocks and stretched now to 4200 blocks may be quoted. This scheme benefits at present, 3.9 million expectant and nursing mothers and 30.2 million children under the age of 6 years. It sets up referral services for pre-school children in non-formal education, health and nutrition.

¹³ See Chandalika – a Play by Tagore.

¹⁴ Seychelles has 54% and Uganda 40.8% women representation in local government

¹⁵ Vide National Women's Machinery (NWM)

¹⁶ 407.1 million in absolute number – Census 1991.

The ICDS projects received formal help from the World Bank, which has enabled the scheme to extend services to adolescent girls. At 3 regional centres at Bangalore, Guwahati and Lucknow. Anganwadi workers are given training to implement and supervise these schemes.

The Government of India set up the National Commission for Women in 1992 to oversee all schemes taken up for empowerment of women and has given the commission the authority to review laws, intervene in specific individual complaint of atrocities sexual harassment at workplace and to take any remedial action necessary to safeguard the interest of women in general. The Department for Women's Welfare is in the process of setting up a National Resource Centre for Women, which be a nodal body to mainstream gender issues in policies and programmes for women by training, research, information dissemination etc.

India is a signatory to the Convention of Elimination of All Form of Discrimination Against Women (CEDAW) and has ratified the convention in 1993 (with certain reservations on re-marriages, which are basically governed by religious mores).

In India, any development planning has to ensure that there is a balanced marriage between economic and social phenomena. The interest of the country as a whole has to take precedence, hence certain much needed changes take a back-seat. It however has to be recognized that human development is the key stone of sustainable development. It is here that India needs a pragmatic and balanced population policy.

The Indian Nobel Laureate Amartya Sen Pointed out, "Central to reducing birth rates is a close connection between women's well-being and their power to make decisions and bring about changes in the fertility pattern..... Reduction in birth rates have been typically associated with improvement of women's status and their ability to make their voices heard – often the result of expanded opportunities for schooling and political activity" (1994). This is exactly the picture of India today. Literacy among women has risen to 58%, which was only 8% at independence (1947). However, this must not give us complacency in the matter. But progress can be seen as in 1996 India took the bold step in giving women power to decide on their own reproductive health. The move from family planning to reproductive health ensures a fundamental changes of approach, as service users become the masters of policy and not its servants. The attain the summit it will take time, but the climb has begun. Amartya Sen says that freedom to make decisions about fertility is the cornerstone for women's empowerment. As this year's national report on demography states, "the progress of political empowerment that has been initiated needs to be translated into supporting reproductive rights".

The real fact is that in many parts of India, still, women are second-class citizens in their own country and not much better than slaves. They work all day, every day, inside and outside their homes. Women work twice as many hours in agricultural activity than men. With over work, poor nutrition, unhealthy housing and surroundings, maternal mortality rate still is 570 per 1000. About 2/3rd of these death are easily preventable with better health schemes. It can also be effectively minimised by improved literacy. The case study is Kerala, where literacy is 86% rate of maternal mortality is well below 200 per 1000, and infant mortality 16 per 1000, compared to national average of 73 per 1000.

Amartya Sen calls this total disregard of the girl child as the "process of quiet violence". The birth rates of girls to boys remains at 93 per 100 and cases of infant mortality of baby girls is not rare. This is "dehumanization of half of the population" and needs to be corrected at once. The quantity and quality of food served in the family has to be equal for all. But that requires that women must also be policy makers at home. A study of the M S Swaminathan Research Foundation in Chennai has shown that in the villages 30% of women only are involved in making household decisions.

In societies which are primarily migratory and men leave to find jobs elsewhere, women become the principal bread-winners of the family, says a study by Bina Agarwal, a leading expert in gender studies. Most women do not own the land they till. Hence, they are deprived access to extension advice, institutional credit, processing and transport technologies. M S Swainathan says since women are landless labourers, “They have no security in cases of death or divorce; inheritance laws and custom are discriminatory so far as the women are concerned” K Balasubrammanium of JRD Tata Ecotechnology Centre at Chennai reports, that added income made by women are mostly spent on food and squandered on liquor and other non-productive pursuits of men, but hardly on education and health needs. Traditional wisdom is present in women, but they hardly get the opportunity to enhance it with modern education and technology. The reason mainly is that political parties, which are primarily dominated by men, think it may be easier to woo India’s 282 million women votes, if they are kept in the same condition and improvement is denied to them. An empowered woman would bring changes to all level of society and the existing status quo will be threatened; women are intentionally forgotten in all development programmes. At the most they are passive recipients only.

Today there is a greater menace - to an extent it has increased with women coming out of their homes and going to work places. This is the increasing ratio of actual violence and harassment women are facing, both at home and at work places. An UNICEF report says that a woman is molested every 20 minutes and raped every 34 minutes. “Eve-teasing” is not only a tease, it is dehumanising as well. There is a constitutional right to claim protection against violence in India, but it is hardly real. It functions as a form a gender apartheid.

Latest estimate shows that around 4 million Indians have HIV infection, mostly in the West and Southern States.. The grip is significant on urban population; one woman in 50, test positive for HIV. It is unfortunate that contraceptives are not used judiciously when sex is practiced. The ratio is 49% Hindus and 37% Muslims. Among the latter Muslim men do not use contraceptives at all. It is heartening that more and more Buddhists and neo-Buddhists and people of other religious minorities are being won over in this regard.

While, thus in medical and other social welfare facilities are on the increase, albeit slowly, the unnecessary feature which is starking like a dark shadow on the welfare of our women-folk is the increasing and rising rate of violence, both at home and at workplace. The National Family Health Servicing gives the following figures (graphic page 8)

It is also reported that women, particularly in the rural area do not even feel bad when assaulted. Wife beating is justified on such flimsy grounds of leaving the house to visit friends or neglecting the children. 21% of husbands irrespective of their religion faith are chronic wife beaters. It is unfortunate that women themselves do not want to protect themselves against such torture. This silent acceptance of violence is derogatory towards self-improvement and development.

To sum up, empowering women requires fundamental changes at many levels of society within the household and family, between women and men and between younger and older women; within the community and its sanctions and practices affecting health, such as son preference and female genital mutilation; within the state, whose officials and policy-makers ignore women’s concerns; and within the scientific community, whose research and technology development determine the contraceptive choices for women and men. The facts below illustrate these various levels affecting women’s empowerment.

The reality is women in general, and poor women in particular, have little or no control over resources and little decision making power. Even limited resources at their disposal – such as a little land, a nearby forest, and their own bodies, labour and skill – are often not within their control, and

the decision made by others affect lives every day. This is reflected most directly in the two areas of economics and education.

a) Economics

- Studies in 12 different Southern countries showed that women consistently work longer hours each day than men.
- Girls begin working at an earlier age than boys and spend more hours working each day (paid and unpaid) throughout their lives, in all regions.
- In Uttar Pradesh, India, women spend as much as five hours per day searching for firewood. Same day be true and rural, under developed areas of other states as well.
- In rural India, women spend seven hours in market work then spend another seven hours in domestic activities excluding childcare.
- To get water for family women have to walk two to six kilometers to and from the water supply and they can carry only 20 litres – not enough for the family for a day.

b) Education

- Women's adult literacy rate is less than half the male rate in many poor countries.
- Domestic duties routinely interfere with girl's school enrollment. To build-up and strengthen women's power, we need:
- Education which enables women to respond to more opportunities, challenges traditional values and changes life circumstances.
- Education is the most influential variable in the improvement of child health and prevention of infant death.
- Education often delays the wife's age at marriage, increases husband-wife communication and knowledge and improves attitudes and access to birth control.

c) So what do we want

1. Conditions of work not only must include healthy work environments, but also protection against unemployment in cases of pregnancy and marriage and access to appropriate services such as childcare.
2. We must not only have access to income but also have control over it.
3. Employment is empowering to the extent that it provides women access to non-kin support, including women's groups, independent sources of information and contacts with outsiders.
4. Empowerment must occur not only within women's personal lives but also in the broader spheres of the community and the state.

5.4.6. Rakesh Mittal, Coordinator, Center for Contemporary Studies, India,
EMPOWERMENT OF WOMEN - ECONOMIC SELF RELIANCE THROUGH MICRO
CREDIT

The face of poverty in India remains largely female. About 320 million Indians are poor, over 70 per cent of them live in rural areas. With increasing male migration to urban areas, more women are now de-facto heads of households in rural areas.

The women's movement has been a major force in India in contributing to the evolutionary process of social development in general and to women's empowerment in particular. There has been a shift in the focus especially in the sixth five year plan of the Government of India, from welfare to the strengthening of women's organisations at the grass root level. The organizations were meant to serve as channels for women to participate effectively in decisions that affect their lives.

The seventh five year plan laid increased emphasis on the formation of collective organisations of poor women, building on their existing expertise and skills in order to provide gainful employment. The Ninth Plan Document (1997 – 2002) lays emphasis on the participation of people in the planning process, and the promotion of self help groups. Empowerment of women through economic self reliance is one of the nine primary objectives of the Ninth Plan.

The Micro-financing schemes have come out as one of the most effective and widely accepted tool for empowering women through economic self reliance in which women form Self Help Groups (SHGs), define their own priorities and as a collective body, access credit for self employment opportunities. The focus on the credit based employment has resulted in increased linkages between banks and self help groups. SHGs are accepted as critical actors in helping women to achieve economic independence and stability.

In India, about 25% women are devoting their time to activities which can get them some income. Most of them are working in the unorganised / informal sector such as dairying agriculture (as wage labour, share croppers or marginal formers), petty shop keeping, vending, pottery or handicraft production, etc,. Often, these women are the main bread earners of their families. As they do not have any significant assets and literacy level amongst them is low, they do not enjoy an easy access to credit. Their credit requirements are small and perpetual.

Despite the number of schemes announced and programmes implemented from time to time for emancipation of rural women from the clutches of poverty and social injustice, it is seen that the expected benefits do not reach the intended groups. In the entire process, women from the rural areas have been marginalized the most. Years of neglect and oppression have weakened the capacities of women, and these need to be regenerated by providing the right impetus and opportunities.

As part of the liberatization process, the Indian economy is now more closely linked to the global economy. This is creating a differential impact of women. Women largely constitute the unskilled labour force in both agricultural and non agricultural labour markets. Poor women particularly those who head households have a key role in enabling their families to survive. Their social and economic empowerment can only be brought about by providing avenues to them to grow financially in the economic sector.

It is now obvious that beneficiaries, particularly women, need to be involved in planning implementation and monitoring of initiatives. There is also a need to continue women – specific poverty alleviation programmes. Women in control of income and wealth are more likely to use it to improve the quality of life of their families. Self Help Groups, which set their own agenda at their own pace are now at the frontline of the poverty alleviation effort. The Micro-Credit movement is growing at the pace set by the Self Help Groups. The consolidation effort puts in place empowering mechanisms and processes which link direct assistance to poor women with better targeting the use of resources to assure women food security and a minimum income to meet basic needs.

In the past few years, efforts to improve women's access to credit facilities have begun to show results. A large number of public sector banks, Regional Rural Banks and cooperative banks are also participating in extending micro-credit to women's self help groups. The National Bank for Agriculture & Rural Development (NABARD), The Small Industries Development Bank of India (SIDBI) and the Rashtriya Mahila Kosh (National Credit Fund for Women) set up to promote the flow of credit support for poor women in the informal sector have created a positive environment for micro-finance. The experience of creating bank and market linkages for the SHGs at the local level has been positive and has shown high recovery rates of loans taken by the groups.

Directing Micro Credit towards women, especially those organized in Self Help Groups, for livelihood based activities is now an accepted and highly successful intervention, with some remarkable successful stories in the Third World.

The grand success of Grameen Bank, Bangladesh and Successful Micro Finance schemes implemented by Various NGOs all over India, e.g. ADITHI in Bihar, Bal Rashimi in Rajasthan, Gram Siri in

Andhra Pradesh, the Dale View in Kerala, and many others have established the fact that women in their collective strength have found the courage to dream of a brave new world and strive for the power over their own self, their environment, their future and the destiny. Hundreds of successful stories could be narrated to prove it. Some of such examples are stated here as follows.

- (1) Lali, aged 38 years is resident of village Moondli, Tehsil Bassi, Distt. Jaipur in the state of Rajasthan. She has two children, a mud house and one acre of unirrigated land. Unfortunately, her husband died three years ago leaving her shocked and dazed. Her house was also destroyed in fire. There being no other earning member in the family, Lali began to do manual work of deepening the village pond being executed by 'Bal Rashmi', an NGO. There she also came to know about the program "Women awareness and self Reliance" run by Bal Rashmi. The Concept of the program encouraged her still more. In 1995, Lali obtained a loan of Rs. 5000 through Bal Rashmi and purchased a buffalo. This proved a turning point in her life. Out of 8 liters yield of milk per day from the buffalo, she sells 4 liters and uses the remaining milk in making ghee and butter milk thereby earning an income of Rs. 2,000 per month. Setting apart Rs. 600.00 for the maintenance of buffalo, she spends the remaining 14000 rupees to maintain her family and also to pay loan installments. This has given a lot of encouragement to Lali. She is happy with her mud house and feels that the buffalo is a necessity for her now. She has hopes for a better future when both her children get educated. She is convinced that this transformation in her economic and social status has happened due to her hard labour and the financial support extended through Micro Credit Scheme of Bal Rashmi.
- (2) Sudama is a scheduled caste woman and belongs to Kutabandh village of mat weavers from Mohanpur block in Deoghar District of Bihar. She occasionally does agricultural wage labour and hardly found employment for 80-90 days in a year at Rs. 5 per day. On the other days, she did mat weaving but she had great difficulty in getting Khajoor leaves in the absence of any working capital. She was given a loan of Rs. 2000 through the Micro Finance Scheme of ADITHI, an NGO in Patna (Bihar), with which she bought leaves and dyes. Traders now come to the village to buy the mats. She and her group now learnt to make other products such as bags from the Khajoor leaves. ADITHI is assisting them for manufacture and marketing of new as well as old products.

5.4.7. **Ms. Shaheen Attiq ur Rehman, Ministry of Social Welfare, Women Development and Literacy Punjab, Pakistan & Dr. Yasmin Rashid, Bunyad Literacy Community Council, Pakistan**

WOMEN'S DEVELOPMENT IN PAKISTAN

a) Problems of Women's in Pakistan

- Low status of women
- Gender disparity
- Illiteracy
- Poor health
- Poor socio economic status
- Violence against women
- Lack of control over resources
- Limited autonomy and decision making
- Low level of awareness of their civic /human rights
- Women are into low return economic activities

b) Aim of Women Development

To empower women and help in their development, the three priorities are

- Literacy
- Health
- Economy

c) Conditions of Literacy in Pakistan (UNESCO)

Year	Literacy Rate	
	Female	Male
1980	13.9	40.6
1985	16.7	44.7
1990	20.1	49.4
1995	23.7	53.0
2000	27.8	57.5
2010	36.7	65.2

d) Gender Disparities in Literacy

Illiterates rate (population in Millions)		Literacy Rate (population in Millions)	
Female	Male	Female	Male
28.4	18.9	8.9	21.9

e) Aims of Functional Literacy

- To create leadership among the women by linking education and information with training and income generation programs through functional literacy.
- By raising their income-earning capacities via self-employment and leadership skills.
- To create a sustainable credit program for them
- To initiate a process leading to greater awareness, regarding gender issues and women's equality.

f) Functional Literacy

Some special programme for urban and rural area

- Educating and Training of women as Mid-wives, LHV's CHW's
- Educating and Training of teaching methodologies as Teachers of non formal education centers
- Educating and Training of Women to create small enterprises by imparting knowledge about appropriate technology (e.g. Prevention of foods, detergents etc)
- Educating and Training in income generation activities like poultry farming, nursery raising, fish farming.
- Imparting education and training about knitwear, sewing and embroidery etc.

g) Economic Conditions of Women in Pakistan

- Invisible and Unpaid Labour
- Highly engaged in rural economy
- No documentation on female labour
- Poorly paid as compared to men

h) Economic Empowerment through Micro Credit Schemes

Micro Credit Programme practiced by WEPA

- WEPA personnel, directly contact with women's household, choosing those from low income families.
- They orient them into rules, regulations and requirements of the programme
- The amount of credit per individual ranges from Rs. 1,500 to Rs. 10,000 saving Rs. 20-Rs.50 in a month
- It was required that the group members maintain a savings account.

i) Type of Micro Enterprises Supported by WEPA

- Micro Enterprises
- Petty Shop
- Home School
- Sewing/Stitching Centre
- Poultry
- Tailoring/Knitting
- Medicines
- Agriculture
- Livestock

j) Women's Health in Pakistan

- Maternal mortality is sensitive indicator to the status of women, their access to health care and the adequacy of the health care system in responding to their needs.
- Maternal Mortality in Pakistan is 360 per 100 thousands live births.

k) Community Development Activities to Improve Health Status of Women

A National Plan of Action has been formulated. The strategic objective of this plan is to decrease maternal mortality through various programmes. To make this objective successful various integrated programmes of Government, NGOs and Donor agencies have been launched such as

- To create awareness about safe motherhood through various advocacy programmes such as Seminars, Workshops Talk show on electronic media, advertisement through print media, a joint venture of Social Welfare Department and Pakistan Medical Association supported by UNICEF.

l) Community Development Activities to Improve Health Status of Women

- Government's Health Workers programme where LHWs give health education and actively participate in population planning.
- Practical application of National Plan of Action through upgrading of Obstetrics emergency services in rural areas and referral networks being established through family health projects.

m) Impacts

- Greater Access to Training and Information
- Development of Self Confidence and Self Esteem
- Change in attitude Towards Women Education
- A positive change in their position in household i.e. of participation in decision making consultation
- More positive view and recognition of Women's Economic Contribution

5.4.8. Mr. Sukumar David, IRDS Mutually Aided Co-operative Society, India,
CREDIT CARD FOR WOMEN SYSTEM (Launching from 1st Jan'2000):

a) Introduction:

Gender equity has been the central focus to fight against poverty enabling men and women to become equal partners in development. Giving them equal voice and better access to resources are important development objectives in their own right.

The marginalised population across the world suffer from multiple liabilities: Lack of food and adequate shelter, victimization by landlords and a sense of hopelessness in the face of over whelming odds, to name a few. Gender inequity adds additional cost not only to women but to children, men and the society as a whole.

We know that domestic violence disables women, leads to a loss of income, increases what society spends on health care and unwittingly teacher children to find violent rather than peaceful solutions to problems. Further girls are prevented from attending school and are denied the gifts of literacy

and numeracy, as women they will have a fewer opportunities for employment, will be less likely to participate in important decisions. Gender issues and stereotypes also affects men.

The Fourth World Conference in Beijing in 1995 evolved the following action recommendations.

- Ψ Increasing bank lending for basic education, health and credit programmes that benefit women.
- Ψ Institutionalising a gender perspective in bank projects.
- Ψ Promoting the participation of NGO's and civil societies in economic policy formulation.
- Ψ Increase in number of women in economic management as an integral strategy.

b) Self Help Groups:

Providing financial services to women has emerged as an important strategy towards combating poverty and priority empowerment of women. The present impact of Self Help Groups at the grassroots has resulted in federating the groups and increase in credit worthiness of the members.

In those issues, action, impact and participatory review analysis (PRA) has facilitated an innovative concept of credit card for the SHG members.

The following are the objectives:

- Easy access to credit facility
- To enable access to basic essential commodities like medical, provisions, educational institution, agricultural stores, cloth & fancy items etc.
- To increase their bargaining and articulation power
- In emergency crisis optimum utilisation of credit cards
- To influence the entrepreneurs to provide competitive prices especially to the credit card members

c) Methodology:

- The members of Self Help Groups will be eligible to obtain credit cards (The Basic Criteria)
- The credit card limit will be for Rs.2,000/- with add on card facility on the progress and performance
- The credit card access to different shops will be identified in consultation with the credit card members.
- IRDS will get into an agreement with the shop owners to give credit for the card holders and collect the credit amount with 10 days credit time from the day of submission.
- 10% service charge will be collected from the members in advance after accomplishing the basic appraisal and issue of the credit cards

- 30 days interest free credit repayment time will be given after which service charge of Rs.2/- per month will be charged with a ceiling of 6 months credit repayment, failing which credit cards will be suspended after serving 3 notices, intimated to all shops and the respective group will pay the dues with interest.
- IRDS Mutually Aided Cooperative Society will promote credit cards for their members as one of the major activity.
- For all correspondence contacts, appraisal, disputes etc will be dealt by IRDS Mutually Aided Cooperative Society, Chief Promoter along with Directors, office located at
- The initial launch of credit cards will be from 1st of January'2001 with an enrollment of 500 members with credit cards
- A team consisting of 5 women organisers exclusively will work on identifying members for credit cards agreement with the shop owners, orientation for members and shop owners, supply of exclusive bill books to the shops and co-ordinate on credit repayments to shop owners and by the members.
- IRDS will play a facilitating role between the credit card holder and the shop owners.
- Exclusive forms and records will be maintained to track the progress of each and every credit card member, like background of the member, standing in the self help groups, formal application, scrutiny committee, printed credit card with photograph and specimen signature, credit repayment and payment notice formats, terms and conditions booklet.

d) Impact:

- Credit as an internal strategy to enable women to articulate, bargain, decision making for an overall socio-economic development of the family
- The concept of charity, subsidy and grant eliminated
- Credit card holders will be women from the self help groups only
- Credit card activities will be done by the card holder only and personally
- Women will have an opportunity to take a lead in understanding the market demand and supply dynamics
- Women will become more visible in the local governance
- Credit card boosts their confidence with proper identity recognition in the family, society and market.
- Credit card will generate gender equity impact
- Credit card will address crisis management
- Credit card can eliminate money lenders and other forms of credit with high interest

- Enhance their aspirations and administration towards socio-economic empowerment.
- Quality and competitive prices will be maintained by the shops with suggestions from the credit card holders.
- Rs.2000/- credit limit is to enable the family to come out of the poverty trap and progress
- Nurturing the development value and responsibility of right to credit and repayment
- Provides an opportunity to participate in policy reforms
- Credit card holders will be the owners of their credit line.



5.5

COMMISSION ON THE RIGHTS OF THE CHILD

COORDINATOR: MR. LEO FONSEKA;
RAPPORTEUR: MS. TRIXIE MARTHENESZ

The commission proceedings commenced with the coordinator reminding the participants that the Convention on the Rights of the Child was ratified in 1993 but with reservation. He stressed the fact that the children are people with rights that there was a need to follow up and implement the agreement made at the convention.

For instance, he asked if the reports on the Decade of the Girl Child has been submitted to the Technical Committee SAARC. He pointed out that while civil societies kept silent 100 of girls are force to cross national borders to be sold.

The following presentations were made during the commission sittings:

**5.5.1. Mr. Bijaya Sainju, Executive Director, CONCERN-Nepal
Concern for Children and Environment-Nepal (CONCERN)
CONVENTION ON THE RIGHTS OF THE CHILD (CRC), CHILD LABOUR, AND
TRAFFICKING**

a) Child Rights Convention (CRC) in South Asian Context

South Asia, now home to almost one fifth of the total world population, is one of the most poverty-stricken regions in the world. The per capita income in this region ranges from \$ 220 to \$1180 (Unicef 2000), and so the vast majority of people are leading a marginalised life.

The issue of child labour, human trafficking has become now a global phenomenon. The problem, however, is most critical in the least developed countries. So this problem is in worst condition in our South Asian Sub-Continent In spite of much effort to limit child labour and the problem of trafficking the problem is growing in our Nepal too. The Convention on the Rights of the Child is the most widely accepted human rights convention within the United Nations system. It has been ratified by all countries of the world including our seven SAARC countries. Therefore, in expressing commitment to bringing the principles of the Convention of the Rights of the Child into practice, States are provided by the Convention with a framework in which to develop an agenda for children.

b) Situation of children in Nepal

In Nepal there is always a growing demand of working children both in organized and unorganized sectors. Mostly children from the "backward" communities are in great demand by employers. Likewise, children are always preferred to adults, because of their cheapness and uncomplaining nature. They are easy to manipulate, intimidate and exploit. The number of children under 16 years of age in Nepal estimated 9.5 million seems higher than in other developing countries considering the size of the population of the country (23 million). Most of people in Nepal live below the poverty line (60% as per World Bank estimation). Work overloaded parents feel relieved of their burden as their children take up work or help them.

c) South Asian People Summit: A Mile Stone

SAP-International has organized this historical People Summit to not only raise the issue but also to combat the growing problem of child exploitation and trafficking in South Asia. We hope that the People Summit could be a mile stone to uplift the situation in our sub-continent. The host country Sri Lanka is also facing the problem of trafficking and exploitation of children in labour force. So far we understand Sri Lanka is multi-ethnic, multi-religious society. The population as per 1981 census estimates 15.3 million. These belong to three communities the Sinhala, Tamil and Muslim. The 1981 census suggest that between 1 & 2 million children under the age of 18 work. Many of these children work under hazardous conditions, experiencing serious exploitation, abuse or mental or physical danger. "Children in Sri Lanka constitute a cheap and docile source of labour, working long hours sometimes up to 20 ours a day, seven days a week at a range of domestic tasks for little or no pay and minimum benefits such as food, accommodation and clothing." (Child Labour in Sri Lanka Learning from the past, SWE Goonesekere, ILO, Geneva 1993)

d) Trafficking problem in Nepal

Women and Children trafficking problem in Nepal is becoming more serious day by day. It has been estimated that from 100,000 to 200,000 women and children have already been trafficked in to India alone. There are several cases also regarding trafficking problems where several women and children have also been sent to Middle East countries for flesh trade. With the growing number of trafficking cases there has been increased child prostitution cases. It has been estimated (unofficial) that there might be at least 5000 prostitutes in Kathmandu under age of 18 years. A group called Social Watch Group has found 100 children who have been put into prostitution business by force.

Some statistics:

1. Out of total trafficked women from Nepal 20% are children under 16 years of age.
2. There are about 3700 street children in Nepal out of them 5% face day to day sexual exploitation
3. Out of total rape victims 60% are under the age of 16 years.
4. Out of total migrants children who became child labourers, 9.7% face sexual exploitation.
5. For the last couple of years the problem of Pedophiles have been seen and recorded in Nepal. At least 60 street children face this problem every day.

Source: Child Workers in Nepal 2000

e) Child Labour Present Situation:

Working children in Nepal have been categorized according to geographical locations. In The Terai area the majority of children work in plantations and in harvesting, and Hilly areas basically in cattle grazing fodder collection, also in cultivation of cultivable areas. Likewise, in mountain areas children are found working in sheep farming and wool production. CONCERN has found out there are more than 70 different fields where children have been working both in agriculture and urban based working chores. As per ILO estimation there are 2.6 mi. child labourers in Nepal being Nepal predominantly an agricultural country a vast majority of children are engaged in this field. Children in agricultural sector usually start to work from the age of 8 years. As per the 1991 census the Central Bureau of Statistics showed that 57% of children age between 10-14 are economically active

Poverty is often cited as the main cause of child labour, but the reality is that traditionally child labour has been common throughout the history and there are several other reasons behind the problem of rampant child labour. Such as polygamy, unemployment, uneducated, non compulsory education system, government's confusing policy, etc

f) Article 32 of the CRC describes:

“ The child has the right to be protected from work that threaten his or her health, education or development. The state shall set minimum ages for employing and regulate working conditions.”

Different fields of child labour in Nepal

A. Agriculture:

- | | |
|-----------------------------|--|
| 1. Cattle grazing | 2. Seasonal and cash crops plantations |
| 3. Harvesting | 4. Ploughing |
| 5. Porterage | 6. Fodder collection |
| 7. Milking cows and buffalo | 8. Collecting firewood |
| 9. Tending livestock | 10. Cutting grass |
| 11. Controlling weeds | 12. Fishing |
| 13. Irrigation work | |

(agriculture works there are two kinds one work as bonded labour with no wage, as tenant with sharing $\frac{3}{4}$ of crops, on wage basis and of their own),

B. Industry:

a) Cottage Industry:

- | | |
|----------------------|-----------------------|
| 1. Carpet weaving | 2. Pottery |
| 3. Textile-hand loom | 4. Candle production |
| 5. Poultry farming | 6. Brick kiln |
| 7. Stone quarry | 8. Wooden handicrafts |
| 9. Thangka painting | 10. Metal handicrafts |

b) Manufacturing Industry:

- | | |
|-------------------------|--------------------------------------|
| 1. Leather factory | 2. Match factory |
| 3. Confectionery | 4. Soap factory |
| 5. Plastic bags factory | 6. Tobacco factory: Bidi / cigarette |
| 7. Plastic shoe factory | 8. Bakery |
| 9. Fruits industry | 10. Printing press |
| 11. Garment and textile | |

C. Plantation Industry:

- | | |
|-----------------------|--------------------------|
| 1. Plucking tea | 2. Sugar cane production |
| 3. Tobacco production | 4. Marijuana production |

D. Service Sectors:

- | | |
|-----------------------|--------------------------|
| 1. Domestic workers | 2. Urban Porters |
| 3. Trekking porters | 4. Shoe shine boy |
| 5. Street sweeping | 6. Tourist guide |
| 7. Temple keepers | 8. Petrol pump attendant |
| 9. Newspaper delivery | 10. Paper bags making |

11. In Hotels, lodges and Restaurants:

a) Counter service, b) Cooking service, c) Washing up, d) Customer service, and e) Tourist contractor

E. Transportation:

- | | |
|--------------------|-------------------|
| 1. Tempo conductor | 2. Bus conductor |
| 3. Cart puller | 4. Rikshaw puller |

F. Technical:

- | | |
|-------------------|----------------------|
| 1. Auto mechanics | 2. Bicycle repairing |
| 3. Car washing | 4. Carpentry |
| 5. Tailoring | 6. Grill welding |

G. Business:

- | | |
|----------------------|-------------------------|
| 1. Street vending | 2. Shop assistant |
| 3. Newspaper selling | 4. High way hawker |
| 5. Fruits seller | 6. Hosiery goods seller |
| 7. Tea supplier | 8. Ragspicking |
| 9. Sex workers | |

H. Others:

- | | |
|---|---|
| 1. Road construction | 2. Building construction |
| 3. Street begging | 4. Street acrobats |
| 5. Black marketing (cinema hall ticket selling) | |
| 6. Golf ball retrieving | 7. Rafting service (in tourist season) |

Source: CONCERN Survey, 1997

g) Consequences or impact on children:

Several surveys and researches show that the children facing the problems of trafficking and forced child prostitution problem of child labour have been affected by various diseases and several unseen health problems. Long working hours, irregular and inadequate meals, lack of sleep, exposure to the elements-sun, wind, cold and heat in an extreme manner (for example in brick kilns and stone quarries), or unhealthy, airless and dimly lit working places, with bad working postures etc. leading to malnutrition and arthritis problems. Child labourers in sex industry has been leading to sexually transmitted disease problems, etc. Similarly, due to lack of sufficient parental love and care, lack of recreational time and some basic education leads to long term psychological damage.

h) Causes behind the Problems:

Poverty is always taken as a prime factor leading to all the problems. Different studies also revealed the fact that the above mentioned problems are normally linked to the poverty of the family, because, financial pressure is the primary reason for children to be sent to work or to run away from home in search of a better future. However, following are also the major responsible reasons. a) Semi feudal society, b) Unjust land distribution, c) Increasing landlessness, d) Increasing number of family members, d) Existing polygamy systems, e) Existing "abolished" bonded labour system, etc. These all causing following social catastrophe.

- Child marriage and polygamy are still practiced in Nepal. Therefore, family separation and desertion happen quite often. Children run away quite often.
- Unemployment problem in our country increasing child labour problems in Nepal.
- Attraction of cities lure the children to go to cities and start to work
- Education is not compulsory in Nepal therefore parents can not be forced to send their children to schools.
- Government policy not making education compulsory leading such problems
- Brokers recruited by businessmen lure the children, offering economic support.
- Children are always disorganized, controllable and have less grievances at their work.
- Employers do not want workers unrest in their factories so prefer children.
- Lack of strict enforcement of law.
- Cultural malpractices have led to exploitative and discriminatory situations for children. So called scheduled caste children such as Kami, damai, pade and sarki are often not encouraged to go to school with other children.

i) Government Efforts:

Nepal's government has made several national and international commitments towards the eradication of child labour in Nepal. These have been reflected by the provisions made in 1990 Constitution of Nepal, 1991 Labour Act, 1992 Children's Rights Act, by ratifying the UN Convention on the Rights of the Child and the ILO Convention on Minimum Age. Recently, government brought Child labour Prohibition Act 2000. The 1990 constitution includes provisions to help protect the rights of the child, especially with regard to slavery, trafficking in human beings, serfdom, forced child labour.

j) NGOs Efforts:

The evolution of NGOs in the field of child labour is back to only one decade. Several NGOs in the field of children are active to tackle the problem of child labour, child prostitution and trafficking in Nepal and have been working in INGOs such as UNICEF, ILO/IPEC, SCF-UK, SC-Japan, AAN,

SC-Norway, Plan International, USAID, etc. However, there are still difficulties in the implementation side. It is basically due to lack of cooperation and coordination among NGOs themselves. Almost all their NGOs' programmes are not community participatory based. Rather they are becoming just project oriented. The staff are not aware and not oriented to solve real problems.

k) Conclusion :

The more exploitation of child labour, trafficking and child prostitution are found in Nepal, the more it reflects the backwardness of our society and country. Its final abolition is ultimately dependent on the fundamental restructuring of society to end exploitation and to promote equity and social justice. This will be a long and complex process of change at both national and international levels. However, we must dispel the ignorance that surrounds the whole issue. We must challenge the widely held view that child labour and trafficking problem is an unavoidable fact of life. Attention must be drawn to its cruel, dehumanizing and oppressive nature. If we are to promote the rights, welfare, and dignity of deprived children in Nepal we have to act now. And activities in both national and international levels are equally important.

5.5.2. **Dr. Jayam.MD DCH FIAP, Founder Trustee: Perinatal Research Foundation, India**
MALNUTRITION : AN OBSTACLE TO NATIONAL DEVELOPMENT

PART I

a) Introduction:

The First Prime Minister of our Country quoted aptly that '***You can tell the condition of a Nation by looking at the status of its women***' Hence as a matter of fact a nation's development depends on human development and economic growth. The persistence of hunger and abject poverty in India – is also due to poor status of women in India, which has a direct effect on children.

Our country has the largest number of children with malnutrition. A recent estimate by the World Food and Agriculture Organisation puts the number of malnourished people (women and children) at around 200 million., almost half the world's total.

Chronic hunger in women is one of the major obstacles to human development and the nation's development. This persistence of hunger in large measure due is to disempowerment of women. Women suffer in greater numbers, and this in turn leads to 'poverty burden' of the society. Malnutrition, lack of education, poor health, over work and lack of power in decision making are the main problems.

Traditionally women bear the primary responsibility for well being of their families. Yet they are systematically denied access to the resources they need to fulfill their responsibility, which includes education, health care services, job training and access and freedom to use family welfare services.

India has reached a billion mark in population. The maternal mortality is still high which accounts for 27% of the maternal deaths in the world. For women survival and child survival is a major pre occupation since basic food needs are not met.

Nutritional deprivation has two major consequences for women: They never reach their full growth potential and anaemia. Both are risk factors in pregnancy, with anaemia ranging from 40-5-% in urban areas to 50-70% in rural areas. This condition complicates childbearing and result in maternal and infant deaths, and low birth weight infants.

Besides posing risks during pregnancy, anaemia increases women's susceptibility to diseases such as tuberculosis and reduces the energy women have available for daily activities such as household chores, childcare, and agricultural labour. Any severely anaemic individual is taxed by most physical activities, including walking at an ordinary pace.

b) Malnutrition in women:

Health and well-being are a function of, and a means to, overall socio-economic development. Consequently, health status indicators and their change over time are good means of addressing the quality of this development and its impact on the environment. This is particularly the case when we look at vulnerable groups. Where women are concerned, the enjoyment of a health status that enables them to lead an economically and socially productive life means that they have not only benefited from the availability and access to appropriate services, but have also been actively involved in the decision-making process and have acquired relevant information and behavior patterns that continue to improve and promote their health.

Poverty, whether it is poverty of knowledge and information, low income level or an unhealthy environment, is reflected in poor health status. Any missing link in the development chain will eventually show up in critical indicators of health status.

c) Malnutrition and its effects:

Malnutrition is a result of lack of resources, poverty, inadequate food, ill health, illiteracy, and lack of health care services. It is perceived at two levels: individual and societal. At the individual level the effect of malnutrition are:

1. Reduced activity (saving on energy consumption)
2. Reduced growth of children; that is, reduced height for age (stunting) and reduced weight for height (wasting)
3. Increased susceptibility to and more serious effects from, some infections like measles; and disorders due to non-absorption of micronutrients like iron causing anaemia; poor use of Vit A because of low energy intake leading to eye impairment and in rime blindness.
4. death in the case of severe and prolonged malnutrition.

Depending on the degree of malnutrition, the effects are particularly serious for infants and young children who need and adequate quality and quantity of food for their physical and mental growth, and for releasing their full genetic potential.

Malnutrition at the social level is a consequence of the relation of people with food. Food as a means of people's health is linked to many factors like distribution of income "entitlement" to food, production and commercial of food, family knowledge, and behaviour about use of food, epidemic and environmental diseases affecting bodily needs, and government and community policies and services such as food subsidy to low income families.

Adequate nutrition is widely accepted as part of the purpose of development, and need not be justified as a means to it. In developing countries malnutrition is a principle obstacle to human productivity and to socio economic development, because of its immediate effect on initiative; learning capacity and absorption of schooling; health; strength and length of working life; responsible parenthood linked to infant and young child mortality); social well being and mobility.

d) Consequences of nutritional deprivation:

Malnutrition poses a continuing constraint to India's development. Despite improvements in health and well-being, malnutrition remains a silent emergency in India. More than half of all children under the age of 4 are malnourished and 30% of newborns are significantly underweight. The World Bank estimates that malnutrition costs India atleast US\$10 billion annually in terms of lost productivity, illness, and death and is seriously retarding improvements in human development.

Despite some improvement, India's women remain significantly more malnourished than men, and 60% of Indian women are anaemic. Bias against women and girls is reflected in the demographic ratio of 929 females for every 1,000 males. In India, unlike most countries, more women than men die before the age of 35. As mentioned earlier India's maternal mortality rates are very high, particularly in rural areas, ranging from 440 to 580 deaths per 100,000 live births. Maternal deaths in India account for almost 25% of the world's childbirth-related deaths.

PART II

ADOLESCENT AND MATERNAL MALNUTRITION IN INDIA

The sex bias in nutrition for the male and against female infants, girls and women has been exposed by several studies. Girls enter into marriage and motherhood from their pre existing malnutrition and impair their health further. Cultural traditions like intra distribution of food in the family, which is rooted in rural areas compel women to eat last and often eat less both in quantity and quality. While low nutrient intake may help in maintaining her own health and nutritional status, such as it may be the demands on the body during pregnancy and lactation drastically deplete her already scarce reserves leading to entrenched deficiencies and ill health.

India's maternal mortality rates in rural areas are among the highest in the world. A factor that contributes to India's high maternal mortality rate is the reluctance to seek medical care for pregnancy – it is viewed as a temporary condition that will disappear. The estimates nationwide are that only 40-5- percent of women receive any antenatal care. Evidence from the states of Bihar,

Rajasthan, Orissa, Uttar Pradesh, Maharashtra and Gujarat find registration for maternal and child health services to be as low as 5-22 percent in rural areas and 21-51 percent in urban areas.

Even a woman who has had difficulties with previous pregnancies is usually treated with home remedies only for three reasons, the decision that a pregnant woman seek help rests with the mother-in-law and husband; financial considerations, and fear that the treatment may be more harmful than the malady.

It is estimated that pregnancy related deaths account for one-quarter of all fatalities among women aged 15-29, with well over two-thirds of them considered preventable. For every maternal death in India, an estimated 20 more women suffer from impaired health. One village-level study of rural women in Maharashtra determined on the basis of physical examinations that some 92 percent suffered from one or more gynaecological disorder.

Anaemia makes a person more susceptible to carbon monoxide toxicity, which is one of the main constituents in the biomass smoke. Given the number of Indian women who are anaemic – 25-30 percent in the reproductive age group and almost 50% in the third trimester – this adds to their vulnerability to carbon monoxide toxicity.

Additionally, with an increasing population, diseases caused by waste disposal, such as hookworm, are rampant. People who work barefooted are particularly susceptible and it has been found that hookworm is directly responsible for the high percentage of anaemia among rural women.

Nutritional deprivation of girl children and women leads to poor development. There is growth stunting and anemia – which is a physical manifestation. This leads to poor pregnancy outcome and severe anemia (around 70%). All these added to poor education and access to health leads to high maternal and infant deaths.

The physical labour is continued from the age of 10 to adulthood including at the time of pregnancy. Malnutrition in women and its effect on national development can be summarised as

- ┐ Poor nutrition of girls leads to stunting of women.
- ┐ Low birth weight babies are more
- ┐ Infant mortality and maternal mortality is more
- ┐ Poor quality of human life.

a) Low birth weight and malnutrition in the young:

One of the major determinants of Infant survival and growth in children is the birth weight of babies. Low birth weight in full term infants is a reflection of intrauterine growth retardation and short gestational periods are consequences of maternal malnutrition. Intrauterine growth and development are vulnerable processes in human life cycle events which have impact on infant neonatal morbidity and mortality and subsequent nutritional status. The cycle of poor nutrition perpetuates itself across generations indicating poor public health in general and maternal malnutrition in particular.

A society with greater prevalence of low birth weight babies is likely to have greater degree of child and eventually adult under nutrition. In India over a third of all deaths of children under five years occur in low birth weight infants. Of the entire population they contribute to about 18% of all deaths. Can Indian children starting with the initial handicap of low birth weight due to maternal under nutrition in pregnancy achieve their full genetic potential for growth?

This is an important outcome of the under nutrition and anemia in women. Growth restriction that occurs during the fetal period leads to growth stunting for a generation. The height and weight of Indian children, especially those between 2 and 3 years of age are below the western and affluent Indian standards. This nutrition deficiency leads to slowing down of brain cell generation and lower intellectual competence. (Berg, Scrimshaw and Call 1973).

In the severely malnourished child auditory, visual integration is below standard; there is reduction in comprehension and all domains of child development. Because of the poor attention span there is a school drop out among the poor. It appears that moderate to severe long term under nutrition is far more damaging to the brain than acute malnutrition. This “brain effect” is far more significant when their growth deprivation in fetal life, “small is not beautiful but painful in terms of development”.

Childhood malnutrition is a very serious matter with the latest evidence of over 200 million children being stunted. With current status of malnutrition of one billion children in the world will have physical and mental impairment by 2020. Adult malnutrition impairs work capacity, lowers resistance to infections.

Many of the diet dependent diseases such as diabetes, high blood pressure, and coronary heart disease and some cancers – have a fundamental link to maternal under nutrition and low birth weight. So the affluent rich also – should sit back and look at women’s nutrition in a broader perspective.

Childhood under nutrition is enhanced by infections. Malnutrition and infection together reduce the growth and development. This occurs specially in poor sanitary surroundings. Even with the ICDS scheme where food is provided the results are not to the expectation because of very poor sanitary conditions.

Now it is increasingly clear that nutritional deprivation persists through out the life cycle. New scientific understanding amplify the profound importance of linking maternal nutrition, fetal growth, emotional status of women and need for stimulation and improved childhood nutrition. In the ‘State of the world’s children’ – Unicef 1998 spells out a simple but pressing truth: Sound nutrition can change children’s lives, improve their physical and mental development and protect their health and lay firm foundation for future productivity . (Koffi Annan 1997)

In this National context the challenges in early life that can affect the National development can be summarized as

- Around 200 million malnourished young adults and children in India
- Stunting dominates malnutrition in women & children – is linked to mental impairment.
- Low Birth Weight babies are the outcome of fetal growth stunting.
- Anaemia in children – leads to poor Brain development and scholastic performance.
- Maternal anaemia is pandemic.
- Maternal malnutrition predisposes the foetus to abdominal obesity,diabetes, High Blood pressure and Heart disease in adult life.
- Low Birth Weight in India – 33%.
Wasted – 18%
Stunted – 52%
Underweight – 53% (Source – UNICEF 1997)

Other obstacles to be overcome for better national development which indirectly add to the burden of Malnutrition are

- Increased population to land ratio.
- Increased population to water ratio.
- Weak and corrupt infrastructure.
- Lack of initiative from support systems.
- Degradation of natural resources.
- Lack of accountability.
- Urbanization
- Globalization.
- Floods, Famines and others due to ecological abuse.

b) Conclusion and Priorities

As UN Secretary General Kofi Annan has stated: “Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance.”

This recognition is currently missing in India. Transforming the prevailing social discrimination against women must become the top priority, and must happen concurrently with increased direct action to rapidly improve the social and economic status of women. In this way, a synergy of progress can be achieved.

- ┌ As women receive greater education and training, they will earn more money.
- ┌ As women earn more money - as has been repeatedly shown – they spend it in the further education and health of their children, as opposed to men, who often spend it on drink, tobacco or other woman.
- ┌ As women rise in economic status, they will gain greater social standing in the household and the village, and will have greater voice.
- ┌ As women gain influence and consciousness, they will make stronger claims to their entitlements – gaining further training, better access to credit and higher incomes – and command attention of police and courts when attacked.
- ┌ As women’s economic power grows, it will be easier to overcome the tradition of “son preference” and thus put an end to the evil of dowry.

FINALLY AS THE WHO STATES
“HEALTH IS A FUNDAMENTAL HUMAN RIGHT.
WE MUST UPHOLD THIS RIGHT.
WE MUST FIGHT FOR IT.
WE MUST DO SO WITH PEACEFUL
BUT POWERFUL WEAPONS – CARE, COMPASSION,
MUTUAL RESPECT AND EDUCATION.
HEALTH IS INSEPARABLE FROM
INDIVIDUAL RIGHTS AND FREEDOMS,
AND FROM THE RIGHT TO DEVELOPMENT.
ALL COUNTRIES AND PEOPLES
TOGETHER MUST ENTER THIS NEW
PARTNERSHIP FOR HEALTH”

5.5.3. Ms. Rosaline Costa, Commission for Justice & Peace, Bangladesh

CONVENTIONS ON THE ROLE OF THE CHILD/GIRL CHILD/SOCIAL PROTECTION/TRAFFIKING

a) Introduction:

To some extent, it is a curse for a mother to give birth to a girl child and it is no fortune to be born as a girl in a family in the South Asia Region. Of course there are exceptions. But in most poor families the mothers of the girl child / children are blamed for giving birth to their daughters by their husbands or in-laws. Social attitude towards women and girl child is very negative and they are looked down on just because of their gender.

b) Situation of Women and Girl Child:

Women and girls are looked upon by the male dominated society as non-assets or only for the pleasure of men. As a reason we can identify four main causes: (a) parents are dependent on their sons when they reach old age, (b) dowry is to be paid for a daughter, (c) educational expenses are in vain for girl children because she will work for her husband or in-laws after marriage, (d) the household work of a woman in a family does not bring nay monetary help.

Due to the above reasons we find mothers cannot feel themselves a member of a family. This idea is integrated into the mind and heart of a girl child from very childhood that one day or other, she will belong to someone else. She cannot feel as is she belongs to her own parents' family, neither at her in-laws family after marriage, because there she is an outsider.

So, for a girl child, discrimination begins at home. The parents, especially her father begins to think of his daughter's marriage and dowry as she grows.

c) Social Protection:

In the Bangladesh context we see, today there is no security at home for a girl child. The newspapers often report of children of 3 or 5 years old, raped while playing. After such an incident local leaders give more protection and support to the rapist than the victims, because in most cases the rapist is either a son of an influential leader of the village / area or an influential person himself. Besides that the victim is from a poor class society; when parents seek justice and protection of the child, they're also the victims and her family is threatened by the criminals. Rarely, such criminals punished due to many legal loopholes in the process.

In Bangladesh, during the last few years, a number of girl children have been violated sexually by the law-enforcing agency members. Last week a girl was raped by seven army men while travelling by train. When the victim screamed and asked for her brother who was accompanying her and who was separated by the army men, she was kicked out from the train. She lodged a case with the police but who knows what will be the fate of the victim?. The paper also reported that her brother could not be traced out even after three days of the incident.

We know poverty makes people inhuman. Sometimes we get to know, of a father or brother selling their daughter or sister to the pimp. Ultimately this child ends up in some brothel in the country or in some other country.

This sounds very pathetic yet it is fact. Sometimes girl children are forced by poverty to take up jobs where they are discriminated against. They take various kinds of odd jobs such as in the export-oriented garment industry, as domestic workers, brick-breakers for road, or building construction. In those work places human protection is rarely given to those girl children.

The Commission for Justice and Peace and Hotline Bangladesh had successfully campaigned against the child labor in the garment industry in Bangladesh in early 1990s. Consequently, the government had to take a policy decision to eradicate children from this sector and send them to school on a compulsory basis. However, the problem has not yet been solved fully but the steps have been taken to send all girl children to school and educate them. To educate the girl children is to educate the whole nation.

d) NGO Involvement:

Side by side with the government, many NGOs have begun their multifaceted programs for child education and vocational training. There are NGOs who work for the integral development of the girl children such as UCEP, BRAC, etc. The children, remain uneducated, create more poverty and misery for the society. So emphasis is being given to education for girl children by government as well as by NGOs.

Bangladesh was one of the 20 countries who first signed the Convention on the Rights of the Child in 1989 in Geneva. Despite that, even after ten long years, the Convention has not become a reality in the country. The existing laws to protect children (Children and Women Repression Act, 1995); the amended Child and Women Repression Act, 2000, could not protect our children, especially the girl children. There are children who remain uneducated due to extreme poverty, government gives little effort to bring them to school. Children are also sold and trafficked to brothels or outside the country, and no law can protect them, children are burnt with hot water by their house mistress. The ratified Convention cannot save their lives. In fact, the news we get from papers on other sources are the tip of the iceberg. Hundreds of such incidents go unheard and unnoticed.

Girl children are widely trafficked outside the country everyday from Bangladesh. The traffickers either buy these children from their parents by lying that they will be provided with a job or by luring parents and the child saying they will earn a lot of money from jobs which will be provided to them. The innocent children leave their parents and home not knowing their fate and future. Last year more than 200 small girl children were brought back from India where they were in transit to be sold to other countries. Some NGOs, governments of India and Bangladesh and an international NGO helped the process and after that the children were given back to their parents.

Human trafficking is similar to slavery, which is a social crime. Trafficking in the South Asia Region is a continuous crime but no government is willing to do anything against it. United efforts to stop this slavery and crime could protect huge numbers of children from life destruction. All the governments of the region are aware of this problem but never has the issue been discussed by the SAARC governments. Therefore, I place the following recommendations for consideration by the government and civil society of the region:

- Education should be compulsory. Constitutionally and concretely steps should be taken by the government to implement the policy in cooperation with NGOs and common people
- Child marriage and child domestic work should abolished completely and all responsible for violation of the laws should be given exemplary punishment.
- Child rapists should be given exemplary punishments and the victims should be given proper treatment and rehabilitation under due process.

- All the governments of the SAARC countries should come to a platform and take an action programme to stop child trafficking in the region. The national or international mafia gang leaders, pimps and dalals should be brought to trial and be punished as per law of the land.
- Child workers in any factory/industry or home sectors should be completely banned and their parents or elders should be provided those jobs with just salary so that those children can be educated properly.

5.5.4. Ms. Kanthi Perera, Convention on Rights of the Child (CRC), Sri Lanka
ADULT RESPONSIBILITY TOWARDS A CHILD FRIENDLY ENVIRONMENT FOR
TODAY'S CHILD.

a) Overview

As we have moved to the 21st Century, we need more advocates, partners and supports for children; children live and grow among us, but often they are forgotten and ignored. At times, they are intricately connected to us as offspring but somehow they evaporate into oblivion at a general and global level. We may value our own biological children but disregard other people's. We distance ourselves from children in the neighbourhood, community and nation. Yet there is a strong connection among all children, somehow our negligence has a way of affecting more children at various stages and levels. This means our biological offspring can never be safe until all the other children receive the best from the prenatal period throughout childhood to adolescence. In other words, our investment in children pays back dividends not only to the children but also to communities, the nation and ourselves. Non-investment in children also shoots back at society negatively.

The virtues of childhood such as innocence and trust have been celebrated in the past, in folk tales, songs, poems and literature. However, as we stand at start of the 21st century, we hear and remember less of these. Instead, abuse, neglect, violence and cruelty are becoming common, even among children. In many places, even children's play is taking on violence, abuse and cruelty. More and more children are experiencing negative experiences in their growing years.

Human Rights, the Convention on the Rights of the Children and justice have been highlighted more widely in our generation. More literature and information has been published and circulated widely in the world. Seminars, workshops and conferences have been held to improve the quality of life of children. Yet the atrocities committed against children in families and communities may be unprecedented in human history. Why are there these contradictions between information and practice? How does justice for children relate to current experiences of children?

Webster's new dictionary defines, Justice as relating to integrity, impartiality and administration of law. May be definitions such as justice will help us review our actions for and in favour of children.

The world has sufficient knowledge and research findings to improve the welfare of children. Why has this knowledge not been applied to practical child rearing, care and education? As one researcher in a speech advocating for critical strategies for sustainable youth development and security warns, *The World is without question in the midst of rather dramatic change.*" He also points out that fifteen out of the twenty leading indicators of the *"well being of kids today are worse than they were twenty years ago, we are actually losing ground in many important areas despite our noble and good efforts."*

It is my hope that by the end of this brief paper, we will agree to add the involvement of the human heart to the knowledge of what we know about children and youth. We may need to utilize the positive traditional and indigenous child welfare practices. Spiritual beliefs may contribute positively to the solutions that have long evaded us. Most people in the third world have strong religious ties, but those are usually left out of problem solving in favour of head knowledge and information.

In the first place, Justice for children should not be limited to legal terms and judiciary systems only. We need to look at justice for children in the broadest terms. A holistic view of justice for children needs to cover their social, economic, physical, mental and spiritual aspects. Firm grounding in these may safeguard children's welfare and justice more firmly than legislation & laws.

Most countries have laws and legislation in favour of children and youth. Some go further to safeguard the rights and welfare of the unborn children. Laws and rights pertaining to children are not always specific. The implementation and monitoring of these laws often prove very difficult. Somehow most governments and law enforcement agencies have not been able to adequately cater for young children. This age group may be left out on assumption that the justice is covered through their parents.

Older children mainly adolescents are mentioned in connection with negative behaviour, such as crime and other offences. Many governments have laws relating to juvenile offenders and have departments and officers dealing with young people in this category.

In this sense, it seems that children exist outside the realm of the concept of justice until they commit offence in later childhood. Then suddenly, their punishment is legally outlined and meted out by the authorities. On the whole, much less than 25% of the children commit offences. This means children and youth may not come across any form of justice until they are adults.

The United Nations Convention on the Rights of the Child has been a major breakthrough that has narrowed the gap in the welfare and justice rights for children. The Convention of the rights of the child comes close to a holistic insurance for the welfare of children and young people. However, this convention falls into trap that so many governments have fallen by mentioning in general terms, the Rights of juvenile offenders without giving guidance on the positive side of the justice due to children. May be because the United Nations member states comprise the same governments.

The Convention does not discuss the justice and rights due to unborn children. However, the Convention on the Rights of the Child is an important and useful landmark awaiting justice to children. The introduction of the convention captures the essential elements that ensure justice for children;

“A respect for the dignity, equality and rights of all people including children, in order to have freedom and justice and peace.”

Since the Convention is for children, there is no need to include the words, “all people”. The word ‘children’ would help drive in point of the age groups under discussion. The introduction goes further to articulate the reasons for the convention;

“Children need special protection and care because they are mentally and physically young.”

The advise to the state in the convention is good but gives no specific guidance specifically on what to do. It is vague and open to omission and non-compliance.

“The laws of the state must protect children before and after they are born”.

b) General Overview

All states that agree to the Convention must work together to protect children’s rights around the world.

The Convention mentions the fact that many children are suffering and live in difficult conditions and need special care and help. This is common knowledge. Some governments and people need help on what positive actions to take. The same applies to the call for children to live in “peace, dignity, acceptance, freedom, equality and support.”

How do we ensure peace? How are children supported and protected in conflict situations?

The general rights of children continue to urge states, courts, parents and other adults, “to think about the good of the child at all times.” The states are urged “to make sure that basic human rights of all children are protected as much as possible to make sure they are able to survive, develop and be protected”.

The United Nations Convention on the Rights of the child covers the social, economic, physical and mental dimensions. The spiritual aspect is left out possibly to avoid disagreements although the populations of some of the member states are highly religious and implement their beliefs in child rearing, care and education practices.

The Convention does a commendable job of covering the economic, social, physical and mental rights of children. The child’s right to survival and life, the child’s right to develop, the child’s right to be protected and rights of juvenile offenders.

The Convention concludes by pointing out that “children have many rights which must be promoted by the state. The governments are urged to obey the convention and guarantee these rights for children. The states are encouraged to repeat the progress they are making in favour of children.

A good number of states have embraced the Convention, formulated plans of action and submitted reports to the United Nations. So far the impact has not been measured fully. There is no doubt that some children have benefited. However, more children particularly in remote rural areas and urban slums need these rights as soon as possible before they outgrow childhood. What are the quickest and best practices of ensuring these rights reach as many children as possible?.

The Convention on the Rights of the Child will be seriously considered in the Justice for Children Manifesto for the 21st century. It has good and helpful intentions. The following also need to be examined for possible inclusion in the Manifesto. Some of the issues that have a bearing on the well being of youth and children and determine justice for children are population, political and economic systems, women, labour, basic services, HIV/AIDS, armed conflict, governance and democracy.

It is important to remember that the entire human population competes for the same resources. This competition favours adults over children and young people. About half the world population is made up of young people below the age of twenty-five years. 97% of these young people make their representation on issues affecting their lives imperative. This includes their issues of justice as well as their general well being.

Although UNFPA reports some decline in population trends after the year 2015 in their state of world population. This means we will still have almost two decades to contend with large populations. UNFPA confirms the trend in the youth population.

UNFPA also sees the obligations by adults to address the needs of young

“Globally the largest share of adolescents and other young age group is and will continue to be in Asia which has 60% of the world’s population.”

“Child labour is among children below 15 years of age, too heavy responsibilities, long hours depriving children of time to play, rest and leisure.”

All states that agree to the convention must work together to protect children’s rights around the world.”

Statistics: *The Population Reference Bureau's Website gives the following World Trends and Statistics on Population.*

World Population breakdown by region (1995 figures)

Africa	728 million
Latin America	482 million
Asia	3,457 million
Europe	727 million
North America	345 million

- Roughly 40 % of the World's population is under the age of 20.
- Four new children are born every second, about 375,000 every day.
- A staggering 98% of the World's total population growth is projected to take place in Africa, Asia and Latin America between now and the year 2020. In countries least able to cope with the consequences of increasing human numbers.
- By the end of 2000, 84% of young people will be living in developing countries and by year 2025 that estimate will increase to 88%.
- By the year 2000, 53% of the urban population will be youth.
- Up to two-thirds of the newly acquired HIV infections happen among youth between the ages of 15 and 24. Most of them are girls.

c) Political and Economic Systems:

In a number of third world countries, young people are exposed to various forms of political instability. The same countries have weak economies. The political and economic systems have negative effects on children, which contribute to injustices committed against children. Unemployment of parents and young people who complete school increase the economic hardships. Child Labour is often a result of economic stress. The difference between child tasks in the home, and work to enhance family income merge into Child Labour.

The labour laws do not adequately protect children from abuse and danger. Most of them are general and global. They need to be country and community specific. It is easier to agree on definitions of child and labour at the community and national levels, than at the international levels. The non-translation and application of child protective laws at the local levels continue to leave children vulnerable to exploitation.

The Poverty levels continue to decline in some of the third world countries. This erodes chances of justice for children. In Zambia, for example, a little over 70% of the population live below the poverty line. Latin America had an increase in people living countries can be cited with similar alarming statistics in Asia and Africa. These sad economic trends are warning signals. Even some of the industrialized countries are beginning to feel the pinch as Rick Little points out.

“But you can look north as well, you can look at the United States even after all the government interventions, tax programs etc. 21% of all children are living below the poverty line. A higher proportion of children in the United States live in poverty today than they did twenty years ago. Something is wrong about this picture. We have lost ground in poverty. As we all know it's a fertile breeding ground for hatred for hostility and for alienation.

Homeless children and families are becoming an issue. Some of these human beings are classified as fourth world. Some facts on homeless children and families are:

- The typical homeless person in America is a child.
- Children and families make up of the fastest growing segment of the homeless population.
- There are 6000 families living in New York City shelter system. Ten times that number are one step away from homelessness.
- The typical homeless family is a single, 20 year old mother with two children under the age of six.
- Over one third of homeless families have an open case for child abuse or neglect, one out of every five have lost at least one child to foster care.
- Nearly half of homeless children either have witnessed or have been subjected to violence in their homes. Over 40% have been homeless more than once.

Young people and some adults all over the world are losing hope. In a recent Gallup poll of seventeen countries, in thirteen of these adults state that their children will live in worse circumstances than their parents.

Some of the industrialized nations continue to exploit the third world. The economic and trade regulations that deliberately 'short change' developing countries; privatization that dislocates nationals and employment wage patterns that contribute to the numbers of people below the poverty line are some of the global economic systems that are doing much harm. Time has come for people to seriously discuss and review these economic arrangements. People's conscience should be pricked to redress the imbalance in trade arrangements. There is need to reverse the long time economic styles in which those who have gold mines in their lands and mines have no gold reserves, while those without gold mines own gold mines in foreign land and stock up gold in their reserves. It is high time for the reverse. Something needs to be done about the system where 90% of the people own 10% of the resources and 10% of the people own 90% of the resources.

d) Basic Services:

More children in the third world lack basic services, such as clean drinking water, safe and sound shelter, food, health services, education, space, leisure time and stimulating materials. Many countries have attempted to expand their health and educational services, but still too many young people are not connected to the system. In some places, limited health and educational facilities are good but down in quality. The influx of people flocking urban areas overburden these facilities. Children and young persons are also following the urban migration with more and more children on the streets each day. In Metro Manila, an estimated 75,000 children are based or work in the streets according to the Population on Reference Bureau.

The scourge of HIV/AIDS is affecting children and youth. Girls and young women are a vulnerable target. Limited education, lack of income and poverty a downhill path to more problems includes HIV/AIDS. In countries, where young people share family responsibilities, some older children have to take charge of bringing up orphans.

e) Armed Conflict:

Armed conflict is one of the cruelest forms of injustice against children and youth. In the process of conflict, some young people get injured and maimed. Others are killed or displaced. Some children

get separated from their parents and guardians. More and more children are recruited and trained to kill and destroy human life and property.

Children and youth are not part and parcel of decision making to battle or war. They do not manufacture weapons, but suffer severe consequences of conflict. Armed conflict has a way of implanting injustice, hatred and destruction in the young people's minds and hearts. Where adults sow injustice, hatred and violence they cannot expect to reap love, peace and conflict resolution.

Girl children and young women continue to suffer violence such as rape and other indignities. Such traumatic experiences may adversely affect their own offspring. The vicious cycle of injustice can be perpetuated from generation to generation when children and young people are brought up amidst violence and armed conflict.

In addition to the destruction of young people's sense of justice, armed conflicts drains precious financial and material resources. Armed conflicts, defence and weaponry are responsible for budgets that deprive young people of finances. Country after country allocates more resources to defence than child growth and development. The welfare of children and young people fall way below national priorities and plans.

Redressing these imbalances is a more positive way of cultivating and maintaining justice than through regulations and laws. More young people are likely to benefit from an environment of justice than legal instructions.

f) Governance and Democracy.

Good governance and democracy have been widely accepted and acclaimed in the 20th Century. Many nations claim to have democratic governments. Good governance has been accepted and enclosed as a positive measure of citizen's participation. Democracy has a lot to do with numbers, the majority views and consensus.

In democratic societies the needs and views of children and youth should be reflected and catered for. Older children and youth should participate actively and contribute to plans, budgets, implementation and evaluation of national, community and human affairs.

Since young people under 25 years of age make up about 50% of the populations, the same or close to the same ratios of their representation should be reflected in all sectors and levels of government. Their views on governance, conflicts, basic services, employment, poverty, economics, populations etc should be part of the national plans and actions.

The Republic of Uganda is among nations that are commended for their affirmative action in favour of young people. In Uganda, each district has a parliamentary seat for a youth who was elected from a number of young people. Such political gains should be complimented by the private and other sectors.

By now, nations that ignore their children and young people should be ashamed. Alas, the United Nations and other international institutions such as World Bank, International Monetary Fund that should champion the cause of young people do not have them on their priority list. Then how can they monitor and urge governments to redress the injustices and ensure involvement of young people?

It is urgent that this situation does not carry in the 21st Century. There is need for drastic changes that will revolutionize our minds into long overdue changes. A review of the past three decades reveals backwards trends in the welfare and well being of children and young people.

This generation that has enjoyed unprecedented information and communication technology is full of knowledge on children, but has not involved the heart, mind and soul. Unused or negatively used knowledge is useless and at times can be dangerous. The people who invent bombs and manufacture weapons are full of knowledge but use it for destruction.

Regulations, laws and legal systems have not been successful in ensuring justice for children. Conventions have good intentions waiting for heart friendly interpretations and interventions. An example of this toothless good intention is the declaration on commercial sexual exploitation of children.

"It is recognized that concerted action is needed ... to stop trafficking in children"

The International Labour Organization's (ILO) response to the Declaration and Agenda for Action adopted at the Stockholm Congress on Commercial Sexual exploitation of Children falls in the same trap.

" the ILO will continue to take action against all forms of sexual exploitation of children. At the International level, the ILO is preparing a new convention on the most intolerable forms of child labour of which commercial sexual exploitation is one."

The Industrialized nations have played major roles in international laws, conventions and the general search for solutions to the problems of human beings. The third world nations have been viewed as problem creators and the northern countries as problem solvers. Often times it is the third world nations that have crossed the most bridges to relate to the northern countries. Unfortunately, the wealth of resources and information has not solved the problems that face humankind including children and youth.

It may be useful even in exasperation to look to the third world for solutions from their strengths. In general, the third world is richer in human and heart relationships, religiosity and spirituality. These are strong components of the hearts of the third world. If the world is willing to give a try to third world, the present laws on justice for children and related conventions could benefit from solutions with a human heart saturated in religious beliefs.

Positive aspects of traditional and indigenous family and community systems may offer some learning. Family and community relations who have been described as extended families may also be helpful.

g) Sri Lankan Monitoring of the CRC:

The Convention was ratified in Sri Lanka in 1991 . Based on it the Children's Charter was adopted in 1992. Both documents reflected standards and norms to protect children living in situations of armed conflict

Sri Lanka had sent the 1st report and was taken for hearing on 5th and 6th of June 1995 and was adopted. Observations were made on the reporting.

The Committee was satisfied with the submissions in the 1st report. They were very encouraged by the frank and co-operative manner of how the issues were presented as both the progress achieved in implementation and the difficulties encountered were also presented.

h) Positive Aspects of the Report Noted by the Committee

- Formation of the national Monitoring Committees in 1993 under the Ministry of Health , Highways & Social Services
- Launching of the Action Plan for children in Sri Lanka to be implemented during the period 1992 – 1996.
- The dialogue between the state party and the NGO's specially the NGO Forum
- Possibility to amend laws relating to child abuse. Child labour and Juvenile Justice systems and ensuring the compatibility with the provisions in the CRC
- Willing ness on delegations to take advice from UN bodies., National and International Non Governmental /agencies, in the field of child abuse , child labour and Juvenile Justice

i) Factors and Difficulties Impending the Implementation of the Convention

- Economic & Social situation of Sri Lanka
- Adverse effects of structural adjustments
- Civil Armed conflict in the North & East which takes of most of the Human and financial resources, which has an impact of over 30,000 children
- Lack of quantitative and qualitative reliable data, shortage of means to implement programs
- Lack of indicators and mechanisms to evaluate the progress and impact of policies adopted.
- Absence of Co-ordination between the Government Departments and the Ministries, Central and Regional Authorities, which affects negatively.

j) Sri Lanka 2nd Report 2000

Sri Lanka's amended Penal Code (Amendment) Act No. 22 of 1995 came into operation on 21st October 1995. The amended act contains provisions to strengthen the law relating to the following offences.

- Use of children in obscene publications, exhibitions etc.
- Cruelty to children.
- Grievous hurt.
- Sexual Harassment.
- Procuration.
- Sexual exploitation of children.
- Trafficking in persons.
- Rape.
- Incest
- Unnatural offences.
- Gross indecency
- Grave sexual abuse.
- Publication of matters relating to sexual offences.

In these reforms the hallmark is the creation of certain new offences and the prescribing of minimum mandatory penalties for such offences.

In December 1996, Her Excellency the President appointed a Task force to draw up an action plan for the prevention of child abuse. The birth of the National Child Protection Authority was the brainchild of this task force.

Formation of the National Monitoring Committee under the Sri Lankan Chatter as a permanent body, established by Her Excellency the President.

The Committee makes recommendations and decisions on Policy matters are chaired by Secretary of Social Services Ministry,

National Monitoring Committees function at provincial level, District and Village level. They link up at meetings and by reports sent to the National Monitoring Committee

Channels of communication need to be further strengthen and improved to provide frequent flow of accurate information.

In order to implement some of the recommendations of the task force amendments were introduced to the following enactments in 1998.

- Judicature Act No.2 of 1978.
- Code of Criminal Procedure Act No.15 of 1979.
- Penal Code of 1889.
- Evidence Laws of 1895.

Under the new amendment to the Penal Code prohibits the use of persons less than 18 years for the following purposes:

- Begging
- Procuring persons for sexual intercourse
- Trafficking in restricted articles

The amendment also imposes a legal obligation on developers of films and photographs to inform the police indecent or obscene material in relation to children.

The amendment to the Evidence Act enhances the protective rights of child victims of abuse. It permits, in child abuse cases, the reception of video-taped evidence of the preliminary interview with a child victim or witness, thus reducing a child being further harmed by a legal process which he often finds difficult to withstand in view of the tender years and also prevents cases being prejudiced by lapses of memory.

Universal Child Immunization (UCI) and Oral Rehydration Therapy (ORT) continue to be very successful in the providing basic health services to children. Much progress has been achieved in the control of most communicable diseases.

The prevalence of Malnutrition among infants and young children has been a persistent problem.

NGOs too have played a major role in lobbying and conducting advocacy programs on HIV/AIDS.

Educational Reforms were carried out after a number of studies conducted by local and foreign organizations made recommendations for educational reforms they are in infancy stage of implementation.

Corporal punishment is still being meted out in schools under the guise of disciplinary measures. There is a lobby to abolish corporal punishment, which the relevant authorities are still contemplating. In terms of Article 11 of our constitution no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Sri Lanka further is a state party to the Convention on Torture. Convention against torture and other cruel, inhuman or degrading treatment or punishment Act No 22 of 1994 was passed by Parliament. Even with this type of legislation being in place one wonders how corporal punishment could be meted out in such circumstances.

The birth certificates of children in Estates are a complicated situation, as the parents of these children too have no birth certificates.

Sri Lanka's Directorate of Military Intelligence estimates that at least 60% of LTTE fighters are below the age of 18 years.

The conflict contributes to both the mortality and morbidity of children and women and in addition has widespread psychosocial implications that are more difficult to assess and monitor.

The Juvenile justice administration laws have never been subjected to any amendments since their enactment nearly 60 years ago and the need for review is long overdue.

The Present Sri Lankan Constitution does not recognize the right to information as set out in the Convention on the rights of the child.

There is an increase in the number of cases of sexual abuse being reported which was a few years ago was unheard. This is directly because of the lobbying and advocacy campaigns carried out by Government agencies as well as Non Governmental Organizations.

I wish to summarize five essential elements that promote positive child growth and development.

1. Ongoing relationships with caring adults from the prenatal period through childhood to the youth years
2. Safe places to live, play and work including structural activities.
3. A healthy start for a healthy future.
4. Marketable skills through effective education.
5. Opportunities to serve others and the communities.

This is the climax of the society reaping what they sow in the lives of infants, children and youth. From here, young people go into action as caring adults and parents themselves.

The 21st century challenges us to live in our localities and the global village at the same time.

Think Globally

And Act Locally.

5.5.5. Mr. Leo Fonseka, Retired UN Civil Servant, Sri Lanka
IF SAARC DOESN'T THE PEOPLE WILL.

Today, an important regional event begins in Colombo this weekend. The South Asian Peoples' Summit convened by the South Asia Partnership International will be held at the BMICH from 8 – 10 December 2000. Hopefully, with it should begin a new regional process that is owned and controlled by the people of South Asia. It will go into history as the first ever SAARC Peoples' Summit. A galaxy of intellectuals and other leading public figures from the region are billed to attend it. The inauguration this morning at the BMICH of the SAARC PEOPLES' SUMMIT convened by the South Asia Partnership International sends out to the region a bagful of pertinent messages.

In a way, it is a silent vote of no confidence on our leaders. If the leaders don't want to meet, we, the people, surely have the need and desire to meet. It is a declaration of the aspirations of the South Asians to coexist peacefully. The Summit is also a silent proclamation of the desire that we, the peoples of South Asia must directly participate in shaping the future of the region. It is a covert admission of the frustration of South Asian people about the behaviour of their political leaders who have not shown any desire for nearly three years to meet together to deliberate on common issues of interest. They not only feel frustrated but also let down. I presume that the Summit is also an expression of their determination to push SAARC to a higher gear and speed of action.

There is no gainsaying that the august inter-governmental system in South Asia is functioning sub-optimally. Despite the good intentions of the initiators of this mechanism and also the commitment and efforts of its kathmandu-based Secretariat, the mechanism is malnourished and it stunting. Obviously, as long as the Secretariat functions the way it is, the region can take solace in the hope that it will not die prematurely. Thanks to the Secretariat, the embers are still burning, fanned by successive dedicated teams of seven Directors led by the Secretary General. If not for them, it could have died long ago.

The Minister of Foreign Affairs of Sri Lanka recently spoke, in eulogizing terms, of the performance and achievement of SAARC and paid it a glowing tribute. The civil society knows that government spokespersons cannot and will not ever belittle their own work publicly. They will always speak high of the achievements of their governments even if there aren't many. The question is what was the yardstick used for assessing the SAARC performance. Necessarily, the yardstick was turned out in government factories. From the perspective of a slow moving, vision-less, State anything moving is an achievement. But, from the point of view of the people of SAARC who have been silently suffering the grotesque injustices of the succeeding political regimes and economic exploiters, SAARC is a slow coach reminiscent of the narrow gauge Kelani Valley Railway. I remember the days we longed to jump in and out of the moving wagons of KVR at its highest period.

The regrettable thing is that some of our SAARC leaders behave exactly the same way we as children behaved forty years back. Their hearts have never been in SAARC. They jump in and out of it. It is easy to do so because it is such a slow coach and no one bothers about the time it reaches the next station. The mind is set to have a comfortable, lulling journey, no matter how much time it takes. There is not urgency, no any exigency. The caravan moves on. And, that is exactly the complaint of the SAARC people and their civil organisations.

In most matters, the SAARC agenda does not show any sense of urgency nor does it have serious deadlines for action. There is no assiduous monitoring of any of its major initiatives. Take for example of Decade of the Girl Child. The Secretariat devised a comprehensive format for common reporting and annually prepared and submitted a consolidated progress report to the related Technical Committee, which rather mechanically adopted it with a routine, innocuous observation that 'greater attention be paid' to the issues relating to the Girl Child. Was there any corrective

action proposed? Was there any major observation that made any state party a little uncomfortable about their lack of progress? No.

The SAARC process itself is slow. Any significant motion has to wait for years for adoption. First, it waits until the relevant Technical Committee meets. Generally, it meets annually. Then, the proposal stays put till the next Standing Committee meets for scrutiny and endorsement. Thereafter it goes to the Council of Minister. Yet, the task is not over. It must then wait for endorsement by the Summit, which more often than not fails to meet. Apparently, it has grown weary of itself. Often, under some pretext or the other, the Heads of States or Governments, individually and severally, have been putting across technical or political reasons to avoid the Meeting. It has not been convened for nearly three years now. As it appears, many States would not agree to a Summit as long as General Mush raff remains in power in Pakistan. The ultimate sufferer then is the SAARC process and its people.

One may argue that, though the Summit has not been held, the process has been continuing unabated under the direction of the Council of Ministers. The argument contradicts of SAARC Charter. If that is true, then why does the SAARC Charter continue to recommend such an expensive tamasha for poverty –stricken South Asia? The expenditure involved can provide 20-25 rural school building or rural hospitals each year or fully immunize 1 million infants against the six major diseases annually. If we can live without the Summit for three years, we can live without it outright. If the leaders of South Asia continues to treat SAARC as a pass time or something that they would attend to only if time and conditions permit or at their whims and fancies, then, let us amend the Charter and say to the Heads of States or Governments, “Go away, we can be without you”. And, that is the point I wish to raise now when a SARRC Peoples’ Summit opens today at the BMICH. If the Heads cause the slow down of the SAARC machinery and process, let us find and alternatives.

Obviously, we all know the SAARC had not been sleeping all these fifteen years. We have no quarrel with SAARC on that count. There are several noteworthy accomplishments to its credits among then are the two excellent products in the form of the Independent Commission Report on Poverty Alleviation and of the SAARC Agreement on Preferential Trade Arrangements. These are Products of high sensitivity and quality professionalism.

SAPTA is working well towards its goal. But, the JICA funded SAARC’ poverty alleviation project that emerged as a follow up to the Commission Report has gone off the hook. We are aware that a consultant was assigned to visit Nepal and a few countries teaching them how to organize and mobilize rural communities and micro-credit groups something that most nations of the region knew for ages. After over two years of plane and jeep rides of many people, little was achieved as a region. Now, don’t blame the Secretariat. Neither does it have a role to play in implementation nor has it any technical capacity to guide or assist the implementation, which is a responsibility of the respective States parties. Undoubtedly, one may be able to show some few patches of success here and there and call them a result of the project. But they are mere islands of excellence in a vast sea of needs.

The question is what major lessons has the region learnt from the Project? Were there any lessons or good practices that can help us in accelerating the poverty reduction efforts in our lands? One doesn’t launch regional programmes just to achieve national level results that the nations are capable of achieving without SAARC cataclysm. Similar programmes have been achieving results for decades in SAARC countries. The Orangi Pilot Project in Pakistan, Self Employment for Women Association (SEWA) and Urban Basic Services for the Poor programme in India, the slum Gardens Project and Mahaweli Settlement Scheme in Sri Lanka, Grameen Bank and BRAC in Bangladesh have all proved that national expertise and capacity is available to conduct such pro-poor programmes. The case in point is that SAARC level programmes must have a regional flavour and

output. Merely increasing the yield of a district through introduction of hybrid grain varieties must be best left to national planners and programmes. The mere networking of a series of national projects does not make a regional project. Implementing a few area-based poverty reduction projects in some of the seven countries under a regional label would not be a bad idea. Necessarily, it will serve the area and also that particular nation but not the region as a whole. Regional programmes are those that prove by demonstration that there is definite value-addition, economic or social, when countries come together and address common issues. For example, if Federations of Farmer Societies are encouraged and helped to link directly with the importers of their products in the neighbouring countries thereby increasing the farmer profits, there is an element of Regionality in such efforts. That will help the region learn many lessons of cooperation.

Our concern is that SAARC does not receive the attention and commitment that it deserves from the top leadership of our nations. The fact that SAARC was able to achieve even this much in a hostile environment without the much support and patronage of the national leaders tell us how much it could achieve with good encouragement from the top leadership.

All in all, South Asia people understand that the genre of leaders today do not care much for SAARC processes. Most of them keep it is a façade to cover their myopic political interests. They just allow SAARC to drift.

The people of South Asia wish to know he SAARC can be vitalized and provide more power to the elbow of the SAARC secretariat so that it could formulate and guide SAARC without too many red tapes and procedures. The Secretariat comprises very senior foreign ministry officials of the members states. They must be trusted as capable people. Once the relevant Technical Committee clears a proposal, the Secretary General must be given the powers to implement it close consultation with the executing States. He should be trusted for high political sensitivity and integrity. Once the Committee endorses the implementation parameters, the Secretariat should be permitted to go ahead with it and ensure that the proposal is made operations. It is ridiculous to think that this senior officials is less competent than those who attend the occasional Standing Committee from respective foreign ministries to determine the political correctness and financial ramifications of a regional proposal. If he is, then he is a wrong choice.

It is a good omen that civil leaders representing 1.4 billion people of SAARC decided to meet in Colombo when their leaders are still locked in an ideologies-backed political coma. The main issue appears to be whether it is politically correct for South Asian Democrats to meet with an autocrat. In the first place, democratically elected representatives in many South Asian countries behave like autocrats once they capture power.

Where were the democrats, both in government and opposition, when the government awarded monopolistic control to SHELL company that increased the price of cooking gas by nearly 60% within three months crushing the already burdened common person in Sri Lanka last year? Where were the democrats when the government that imposed a 15% defense levy on people to tide over the financial crunch caused by the was decided to be extravagant and increased the salaries of own MPs and Ministers; increase the number of Ministerial ranks to look after nearly two thirds of the ruling party MPs; and issued duty-free luxury vehicle import licenses to the outgoing MPs just three weeks before the dissolution of the Parliament? All this is travesty was meted out after asking the ordinary people to tighten their belts and donate a part of their meager earnings to tide over a national crisis.

One may opine that this has got nothing to do with SAARC, I beg to differ. Though my illustrations are from Sri Lanka, other nations in the region are not an exception to the rule. When leaders of this ilk who do not care for the will of the people. Which is democracy, and even go the extent of

criminalizing the politics without giving democracy any chance in their own countries, point a finger at a Head of Government who is not democratically elected and show reluctance to convene the SAARC Summit, the people are compelled to search for alternative ways of dialoguing. If the leaders don't we shall.

I am not sure whether this was the rationale for SAARC People's Summit. Irrespective of what prompted the organizers to convene the Summit, I consider it a timely civil society intervention. We hope that it will lead to a people process of sustaining regional identity, cooperation and integrity. From this should begin an alternate process that will help counter the increasing political violence and skullduggery that is impeding the progress of nations here.

The Peoples' Summit must consider the formation of at least four independent South Asia Commissions to monitor (a) Human Rights, (b) Poverty, (c) Gender Discrimination and (d) Child Rights. These Commissions must collaborate with apolitical non governmental bodies, including academic and research institutions in each of the member states which can hold public hearings in different parts of their country, collate information and publish and submit an annual State of South Asian People Report to the SAARC Council of Ministers annually. They could also issue interim reports when blatant violations are evident in any country. The SAP system may provide the logistics required for networking this collaborative civil society action.

The Independent Commissions must comprise leading public figures, two from each country and must be ready to make study visits if needed to affected countries to investigate into reported violence or violations. Furthermore, SAARC must recognise the intentions of its civil society partners as constructive and develop some effective institutional mechanism not only to encourage such partnerships and critique but also to get their voices heard up to the Summit level. It will do immense good to SAARC and its working culture if there can be a People' session where the leaders are compelled to listen to a select number off leading lights of major South Asian networks of civil society organisations. One may then query where could we draw the line in selecting them. The answer is simple. If sovereign government together cannot solve even such a small issue, how can South Asia expect them to solve the bigger problems that the region is confronting?

5.5.6. Ms. Nandana Reddy, Director, The Concerned for Working Children, India
THE MEANINGFUL PARTICIPATION OF CHILDREN OR CHILDREN PROTAGANISM

The 2001 United Nations General Assembly Special Session on Children wishes to involve children globally in the formulation of the Child Rights Agenda for the coming decade. At this event it is important to visibly demonstrate and show case the meaningful participation of children.

This paper sets out to discuss the advantages of organised participation of children (under the age of 18 years) as a more meaning way for them to intervene in the development of policies, programmes and actions concerning their lives. This in no way attempts to discount the validity of the participation of individual children in areas that effect them personally.

a) Introduction:

Although the Covnention on the Rights of the Child (CRC) gurantees children the right to express their views freely in all matters affecting them and to exercise freedom of expression children are frequently denied the opportunity to participate in decision-making processes and activities that effect their lives and futures. The right to participation also depends on the realisation of other primary rights such as access to information, the freedom of association and the right to formulate opinions free from influence and coercion. The principle of participation should be integrated into all areas of concern for children.

b) A Democratic Definition of Participation

The word ‘participation’ takes on different forms and meanings depending on the context in which it is situated. The involvement of some children in the inaugural ceremony of a conference, the listening to children’s views and the participation of children in designing some elements of a programme are all considered forms of participation. However, true participation cannot be nearly decorative, symbolic, superficial or a non-time event.

Participation is therefore defined by the ideological frame surrounding it, and would take on different meanings in different societies; in a dictatorship participation would be practiced symbolically if at all, while in an egalitarian one it would be more active. Participation as defined within a democracy should be equal, active, sustained and informed.

This interpretation of participation with reference to children requires a paradigm shift, a change of adult mindsets. Cultural contexts and traditional viewpoints that prevail in society influence the approaches we have towards children. They are largely paternalistic and project children as weak and powerless individuals.

For this to change, first of all children’s view of themselves needs to change. It has been shown that when children begin to demonstrate agency or act on their own and their communities behalf in ways that are informed and responsible society also begins to see them in a new light. In other words, it is when children begin to take themselves seriously that we do too.

“ Until the lions have their historians, history will always be told by the hunters”
A South African proverb

c) Organised Versus Individual Participation:

In a world where social, political and economic structures are still very much hierarchical, children are the most marginalised – even more so than women. Their effective participation depends largely on the extent to which they are organised. Coming together gives them visibility, strength and a collective voice.

The participation of individual children is difficult and ineffective because they represent no one but themselves; it excludes the less vocal and visible; and it gives more room for manipulation.

On the other hand the organised participation of children, especially the more disadvantaged children, gives children strength, access to more information, confidence, an identity and ownership. Individual children representing such groups voice the views and aspirations of the collective. However what needs to be ensured is that all individual children have an equal right to participate in the development of the collective voice.

To enable this children need to be encouraged to form ‘base organisations’ that are natural groupings of children based on their common needs and cause. Adults should not impose this from above based on funding or other organisational constraints.

d) The importance of Children’s Participation:

For children because:	For adults because:
<ul style="list-style-type: none"> © They are their own first line of defence © They know their situation the best what needs to be changed and often how to change it © They have a right to determine the world they wish to live in © They have a right to express their world view © In a democracy (if it is to function well) everyone should participate, including children © Children are citizens © It makes them more responsible © It increases their ability to protect their needs and rights © It helps them to realise their inherent Potentials © It empowers them © It lays a strong foundation for their future © Adults are in total control and thought some may by their ‘protectors’ they can just as easily be their violators (abusers). Children’s participation brings about the inherent accountability of adults © Children will have ownership over the initiatives. 	<ul style="list-style-type: none"> © It improves our understanding © It gives us a more realistic view that is child centred and in the best interest of children © It enables us to develop initiatives that are appropriate and relevant © The initiatives can be both sustainable and have a long term impact © Unlike like most of us children are not cynical beings trapped in systemic frames that are excuses for maintaining status. © Children are most flexible agents of change and enable us to be the same © Children have hope and they believe in change © They are less cynical and more open minded, free from biases and constraints © Adults will have the opportunity to learn © The CRC says so © Children will have ownership over the initiatives.

“Because the Convention recognises children’s right to be heard and to participate in decisions affecting their lives, child labour must be approached with children, with youth, with the ones who understand in their flesh and bones what this terrible problem is all about. We must listen to children who work and contribute, for they often have the answers that elude adults”

e) The role of adults:

At the present time political space is controlled by adults. Children can demand and obtained this space as a matter of right, like many street children have done all over the world. Or they may be 'given' this space by adults and begin to use it to improve the quality of their lives like many working children's unions and movements have done. We (adults) therefore have the choice of either being impediments or blocks to children's meaningful participation or to play the role of enablers and facilitators. If we chose to be the latter adults have a major role to play in enabling this.

There has to be a mutuality of participation between adults and children. This has to evolve from a relationship of mutual respect and reciprocity between adults and children to make participation meaningful and result in concrete outcomes that are beneficial to both.

- **A DIALOGUE THAT GOES BEYOND LISTENING:** We have to first of all learn to really listen to children and understand and what they are trying to say instead of hearing what we wish to hear and putting their expressions into adult frames.
- **Creating the environment:** In a world where children are not taken seriously, their views are not listened to and they are not respected, we have a major role in establishing a 'child's friendly' environment that is conducive for children to organise and participate in keeping with the CRC. This would include creating formal structures that link children's organisations to the body politic.
- **Empowerment :** For children to participate effectively they need to know how to access to information, how to access to information, how to analyse it and how to use it to improve their lives and that of their communities. They need the tools and skills to do this. They also need access to and the use of resources (material, human and financial)
- **Rights and responsibilities:** The rights and responsibilities of individuals, whether they are children, adults or the elderly, are never evenly balanced. When a child is born she/he all her/his rights but no responsibility. Similarly the elderly have all rights, but few responsibility. As we grow into middle age our responsibilities increase while the exercising of our rights diminish; we tend to make compromises for the family, our loved ones or the community.

Our role therefore would be to ensure that children are exercising their rights while shouldering responsibilities that are in keeping with their age and ability (children's development). We also need to constantly monitor the exercising of our own rights and responsibilities. The relationship of partnership therefore, between children and adults has to be constantly negotiated and redefined based on a series of approximations.

- **Ensuring dynamic growth of children's organisations:** The partnership between adults and children's organisations should be one of dependency but rather one of interdependency. This relationship should also constantly acknowledge and work towards a situation when the children's organisation can be self-sufficient and self-sustaining a movement by, of, and for children. This relationship should lead to the meaningful participation of both the children's and adult's organisations and finally to the powerful protagonism of children.

f) Levels of participation

Children participate in decision-making processes for varying reasons. The following 'levels' or degrees of participation are not necessarily practiced in this order or separately. Many children's organisation that we know are operating on many of these levels at any one given time.

- Survival: For children who are in difficult circumstances, marginalised and oppressed their first and foremost need is that of survival. The obtaining of basic needs such as food, clothing, shelter and the livelihood to enable these.
- And end to discrimination: Once basic needs are met the need to end discrimination would become important. For example working children would demand equal pay for equal work etc.,
- Positive discrimination: Once the above is accomplished the next step would be to demand and access rights that are due to them as children. For example working children would demand that they work fewer hours than adults do and have access to quality education in their free time that is compatible to the formal system and appropriate to their needs.
- Solving the root causes: the solving of causes or the redefining of structures that oppress and marginalise children would be their next area of concern. For example eradicating poverty, strengthening the services available to children, increasing the employment opportunities for the adults in their communities. This would also include the participation of children in governance.
- A vision of a New World: And finally children would like to intervene in reshaping society closer to their vision of the world they would like to live in. This would demand that adults enter into a democratic partnership with them.

g) The Spiral of Participation

- To realise their vision of a new world
- To solve causes
- For positive discrimination
- To end discrimination
- For survival

h) Structures for the meaningful participation of children

Children need appropriate forums within which to participate. These forums or platforms need to be decision making arena's that are linked to local governments, school boards, health departments, law and labour departments, parliaments and international bodies such as the ILO and the UNICEF and other UN bodies. These links need to be formalised so organisations led by children can occupy and use these spaces as arenas of participation.

The way social political, cultural and economic structures are now designed they act as constraints that inhibit and even prevent children from participation. Even the structures of adult organisations be they NGOs or international organisations are not designed to be child friendly. International forums such as UNGASS, ILO conferences and other such meetings do not enable the participation of children in the main business of the event. These structures have to be redesigned to be more children friendly so that they facilitate the involvement of children.

“ Participation is not a political campaign that puts children first, as children's liberation proposed, but a process of creating a society that is inclusive of young citizens.”

(Brian Miline-Children's Rights and the Changing face of work in the field 1996)

i) Empowerment

There are three essential components for children's empowerment. They are **Strength** through the formation of the collective, control over information and the access and use of resources (material, human and financial). Our role would be to enable children to access these in the most effective and widest possible way.

j) Principles for the meaningful participation of children

- **Process:** Participation is not a project. The participation of children is a process. It should not be event driven. The process is what empowers not necessarily the event or even the out come.
- **Elected representative:** Child representatives should be elected by the members of their organisation. They should not be handpicked by adults.
- **Informed participation – Preparedness:** Children need time and appropriate information in order to be prepared to participate in any event or process. This gives them confidence and a sense of control over the situation. They also feel ‘equal’ to the other participants (adults) and are able to intervene on an equal footing.
- **Ownership of information:** We must recognise that the children themselves are the rightful owners of all information that they generate and have a right to all information that concerns them.
- **Adults as catalysts:** We (adults) should restrict ourselves to the role of providers of information, methodology, skills and tools. We should be careful to never manufacture consent.

k) Support Systems that Enable Participation:

The implications of a partnership between adult and child led organisations include some of the following:

- Defacto accountability of adults to children
- Constant monitoring of adults by children
- Empowerment of children
- Increased responsibility of adult led organisations
- Adults and children sharing power and political space
- Adults can no longer be self-appointed advocates of children
- Sustainable initiatives
- Strength in partnership
- Onus of taking decisions will be collective
- Empowerment of the marginalised among adults (women, ethnic minorities, the economically weak etc.) inspired and initiated by children’s organisation.

l) Proposal:

A formal forum or platform should be set up to enable children’s organisations to participate in all UN and international proceedings that concern them. The criteria for representation and accreditation should be left to the existing organisations of children world wide to decide. This is a process that should not be either predetermined or rushed. The UNGASS could be an exciting beginning of this process.

It might be useful to ask international organisations such as the Save the Children Alliance to set up a working group consisting of individuals experienced in facilitating children’s platforms at the international level. This working group should be asked to work out the modalities of enabling organised groups of children to define this forum during the year prior to the UNGASS.

The process should be both democratic and participatory, allowing children’s organisations to set the agenda and determine the outcome.

5.5.7. **Mr. Sunil Kumar, Executive Secretary, Social Activities for Rural Development Society, India**

CHILD PARTICIPATION & ISSUES

SYNOPSIS OF SPEECH

Mr. Kumar focussed his address on the tobacco industry in Andhra Pradesh, India, analyzing the problem with statistical data on the employment of children. He stated that there were 15,000 women workers of which 2000 were girls. He observed that this labor was sought out as women and girls provided cheap labour and in addition they were servile and hardworking. Furthermore, they did not enter Trade Unionism that may well present a threat. He estimated that of the 14 – 16 year old girls employed, 80% were from the secluded castes. While 50% of these girls had no education, 45% have had a primary education only.

Some research based findings on them are that –

- 20% were married while 3% were destitute.
- Families comprised generally 6 – 8 members.
- Income was mainly from agricultural pursuits.
- Anaemia and infectious diseases were common amongst them.

The consequences therefrom were poverty, broken homes and gender problems. As such, the urgent needs of the day he categorized under the following –

- General education.
- Vocational skills training of the income generating type.
- Gender education.
- Facilities for leisure and recreation.

In conclusion Mr Kumar proposed that

- The girl child's rights be initiated.
- Legal awareness be brought about.
- Communication for change be established.
- Protective facilities at work place be set up.
- Focus of attention on the girl child be made.
- Co-ordination of NGOs with Governments be established.

5.5.8. **Mr. Bradman Weerakoon, Former Presidential Advisor on International Affairs, Sri Lanka**

PRESENTED AN INSIDER VIEW AS A MEMBER OF THE NATIONAL MONITORING COMMITTEE

a) The Reporting Process

The **Convention on the Rights of the Child** ratified by Sri Lanka in 1990 and the Global Plan of Action for Children in April 1991 – two international instruments were subsequently translated into two major national policy documents, namely

- The Children's Charter and the
- National Plan of Action for the Children of Sri Lanka.

The Children's Charter provided for a monitoring committee – one important function of which was to prepare the five yearly Report to the Geneva Committee. Accession to the CRC has been salutary in terms of the monitoring of child rights since it involves the careful and detailed international monitoring of how the provisions of the CRC are being implemented in the country.

b) Alternate Reports of NGOs Submitted to Geneva Committee

As Government reports tend to make the position more favourable than it is alternates are a very important corrective. An example from the International Committee's Concluding observations on the Sri Lanka First Report submitted in 1994 is illuminating. Sri Lanka's First Report on the prevalence of child labour commented that although the existing legislation seemed to be adequate to protect children from being employed and exploited, a significant number of children below the age of 14 appeared to be employed. It went on to say that according to the Labour Force Survey of the 1st quarter of 1990 (Department of Census and Statistics) 82,000 in the age group 10 years to 14 years were employed.

c) Several Other Concerns Regarding the First Report

- Views of children
- Lack of public awareness of report
- Little information on the North and East – almost denial of what was happening. Corrected in 2nd report but very Foreign Ministry oriented. Displaced children
- Issues of implementation

d) Status of Implementation of SAARC Goals for Children

SAARC in 1993 set out some targets for achievement in 2000 on all important indicators such Infant Mortality Rate, under five mortality, literacy.

e) Identifying Strategic Partners for ascertaining our desirable goals

- The Abomination of Child In terms of the Geneva Conventions, The CRC has ratified changed of optional protocol from age 18 to age 15. However a few loopholes exist - governments can recruit at 17 while non-state actors have more stringent rules. The LTTE has a manpower problem so as long as the war continues they will violate the provision.

- The scourge of Child Labour and Child Trafficking
prevalent in Domestic Sector and informal sector
- Adopting of ILO decision regarding age of employment of minors.

5.5.9. Mr. Sukumar David, Integrated Rural Development (IRG), India

EDUCATION IS LIFE IGNORANCE IS OPPRESSION CHILD LABOUR RIGHT TO EDUCATION

a) The Need for Child Labour Education

In 2000 the end and beginning of the millenium century with India's 53 years of independence, we are still groping in the dark towards various development aspects. One of the key aspects (sectors) has been the education system and its coverage. It's quite alarming to see in these present days of information technology that our major part of the population is still yet to catch-up with basic literacy, which has lead to street children and child labour in millions.

No doubt NGO's & GO's, have been working on different strategies to pursue the concept of basic primary compulsory education. Despite this we are not able to reach up to expectations. That is where the issue has become a major concern to the social activist and well wishers. Perhaps there may be some reason like lack of appropriate planning, lack of committed implementation and overall lack of integral priority. Of course there are many other reasons. i.e. educated unemployed, the very educational system and its structure etc.

But the ongoing reality is we continue to mouth various explanations for the poor performance of our students, and continue to run the schools with a system, which is more defective than the students themselves are.

When we talk of a child's right to education, it is implied that the system of education should cater for the needs of every child for that matter, a system in which large scale failure and detention is endemic. This does not go well even with the idea of compulsory schooling accepted as a directive principle in the Indian Constitution. What we have to give every child is that education which provides him / her if need be, everything connected with education. Teacher training methods, curriculum and the place of learning should be geared to the convenience of the children and their parents towards accomplishing the goal of education for all.

In this given context the impact has been, that thousands of child laborers 10 years ago have presently joined the adult working force with illiteracy and oppression continuing, and their children taking up to labour. This is growing day by day adding on to child labour force. Hence the term eradication, child hood rights have been an utter flop. Every one can see how children's force is involved in labour.

b) Conventional Strategy

Child labour boys and girls in the age groups of 8 to 16 years

c) Bridge Courses

- Education camps
- Non formal education
- Night schools

d) Regular school enrollments after the bridge courses.

- Dropped out due to lack of coping up
- Parents non cooperation
- Lack of consistent follow up after the enrollments

- Lack of Socio-economic support
- Lack of Proper Infrastructure

e) Resulted in Neither Child Labour Eradication Nor

Providing basic primary education

PROPOSED STRATEGY

Child labour in the age groups of 8 to 16 years (girls & boys)

- Provide opportunity of primary education
- Working and learning
- Weekly compulsory contact classes
- Parents co operation and encouragement
- Employers co operation
- Peer and community co-operation

f) Resulting in

- Providing primary education for the working children
- Parents co operation in prioritising CLME
- Knowledge levels on functional management increased (primary & secondary stake holders)

Gradually leading to eradication of child labour and increase in literacy rate●

g) Goal & Objective:

- To Enable Easy Access to Primary Education Through Mail (Working and Learning)
- To Mobilize 100% Enrollments of Working Children in the Targeted Locations.
- To Organize Formal Contact Classes Either at Village / Cluster Level to be Organised (Weekly Once).
- To Involvement of Parents, Local Associations, Grampanchayath, schoolteachers Educated volunteers, in Successful Implementation of the Programme.
- To Enable Regular Supply of Educational Kits for the Enrolled Children. With Focus on Basic Literacy & Functional Education.

h) The Strategy:

- The Working Children in the Urban & Rural Areas Can Be Motivated and Provided Access to Education. As the Children are Very Much Available in the Village and City, Either During their Work, Before or After Work.
- Every Location Has a Minimum Number of 25 (Girls & Boys) and a Maximum of 50 Plus Working Children. This Makes Easy to access **“CHILD LABOUR MAIL EDUCATION”** Depending on the Nature of Work and Allotting Time for Education.
- For Girls **CLME** Should be More Convenient as Most of Them are Engaged in Domestic Chores, and Baby Sitting / Available At Home.
- Parent’s Resistance Will Not Be Much Due to Non Interference in Their Children’s Working and Remuneration.
- A Core Team of Mobile Teachers Will Be Deployed To Maintain the Consistency and Follow up On the Syllabus Exclusively Made for - Mail Education.

- Enabling Community Members to Become Co-educators for Their Own Children.
- Promoting Eco-walk to the Fields, Market Place, Hospital, Post Office, Bank, etc.
- The Respective community based peoples organisation Will Be Involved To Monitor The Day to Day / Periodic Progress of The Child.
- A Nominal Fees of Rs.10/- Each Child will be charged for enabling committed participation and to maintain part of the project expenditure.
- The Local Grampanchayath, the Government School Authorities and Youth Will Also Be Involved In Prioritizing Education Access to the Non School Going Children.

i) Activities Under CLME:

- 100 % Identification & Enrolment of Working Children in the targeted locations.
- Categorization of Children According to Their Educational Perception.
- Identification of Educated Volunteers Village Level.
- To Organise Intensified Periodic Camps for Five Days With Orientation on CLME Concept & Beginning.
- To Organise Periodic Awareness & Motivational Programme for Parents, Employers, Grampanchayath, Local Associations etc.
- Preparation of Appropriate Educational Material for **CLME**.
- Core Volunteers & Teachers to Have Regular Review & Follow-up.
- To Establish Library Books on Circulation for the Enrolled Members & Teachers.
- The Minimum Duration Would Be From 2 Years plus Depending on the Children's coping and line up.
- The Working Child Will Be Encouraged To Work And Simultaneously Pursue **CLME**.
- The Weekly Contact Classes To Be Made as Interesting as Possible With, Games, Sports Audio, Video, and Aids to Make it Optimum Attraction and Acceptance.

CLME STRATEGIC PROCESS IMPACT

	WORKING GIRLS & BOYS (CHILD LABOUR) ↓	PARENTS ↓	EMPLOYERS ↓	IRDS TEACHERS ↓	OTHERS ↓
WORKING GIRLS & BOYS (CHILD LABOUR) →	<ul style="list-style-type: none"> Weekly Contact Classes Working & learning every day Peer group sharings and learning about CLME Child to Child CLME Promotion Interaction during the children's camp 	<ul style="list-style-type: none"> Parents consultations Children Seeking Parents Co-operation for CLME education Children sharing their learning's from CLME Children sharing their progress to their parents Parents convinced of working & learning system Parents & children's co-operation established Parents priority towards education 	<ul style="list-style-type: none"> Employer extending co-operation for the working children to participate in the CLME Attitudinal changes in the employers towards CLME Children seeking the employers co-operation towards CLME Children sharing their progress to their employers by proper presentation. 	<ul style="list-style-type: none"> Children seeking teachers advise and practice Teacher developing good rapport with the children and their parents Weekly contact classes made interesting and lively. Teachers follow up during the other working days Teacher children relation well established through CLME 	<ul style="list-style-type: none"> Children's behavioral change and presentation in the community Children sharing their learning's to the community Children showing up their progress and personality development Community responding to the working children's progress Grampanchayath and other peoples organisation recognising the CLME systems and extending their co-operation in conduction of CLME.
PARENTS →	<ul style="list-style-type: none"> Parents enrolling their working children in CLME Parents co-operation to their children for learning primary education Parents contributing monthly fees of Rs.10/- for their children education through CLME Parents happy over their children's performance Beginning of encouragement to children towards prioritising primary education Parents convinced on CLME system of education 	<ul style="list-style-type: none"> Exchange of views and opinion amongst parents Parent to parent campaign on compulsory education for children Formal and informal consultations leading to parents becoming co-educators for their children Amongst parents sharing of their children progress through CLME Parents taking a lead role in CLME process Parents coming out with suggestion and advice Regular parents meeting and increase in parent's participation. 	<ul style="list-style-type: none"> Parents seeking the employers co-operation Parents influencing the employer to co-operate for their children education through CLME Enabling a healthy access amongst parents and employers Attitudinal change amongst parents and employers towards compulsory primary education. 	<ul style="list-style-type: none"> Regular parent's teacher's consultations and rapport built. Parents seeking advice on their children's progress Teachers counseling parents towards prioritising education for their children. Teacher convincing the concept of CLME to the parents Teachers parents follow up on CLME process 	<ul style="list-style-type: none"> Parents sharing their children's progress to others in the community Parents expressing their happiness to other community members on CLME project. Parents discussing on CLME system while travelling by bus, in the weekly markets, and with their neighbors Parents influencing the Grampanchayath, other peoples organisation in the village on their children progress and CLME system.
EMPLOYERS →	<ul style="list-style-type: none"> Employer extending co-operation to the working children to enroll in CLME Employer giving permission to attend the weekly contact classes of CLME Employer encouraging the working children to pursue their CLME education Employer enquiring on the progress of the working children Attitudinal change amongst the employer towards compulsory primary education for children 	<ul style="list-style-type: none"> Healthy relationship promoted amongst parents and employers through working children and CLME Employer and parents discussing on working children's education Employer co-operating with the parents towards CLME Employer exploiting the working children reduced Employers attitudinal change towards prioritising compulsory primary education for all 	<ul style="list-style-type: none"> Enabling consultation amongst employers Discussions on CLME concept amongst employers Sharing of views and opinions on their child employees Employers influencing, prioritising of primary education for all Employers encouraging working and learning system Employers showing concern to working children Employer to employer campaign for promoting CLME for their child employees 	<ul style="list-style-type: none"> Employers extending co-operation to the teachers Employers & teachers relationship healthy Employers and teachers strengthening the CLME system Employer sharing his views and opinion to the teacher on CLME Employer suggestion and advice to the teacher on CLME 	<ul style="list-style-type: none"> Employer sharing his views and opinion to others in the community Employer influencing the community on prioritising compulsory primary education for working children Employer influencing the Grampanchayath on encouraging CLME Employer's attitudinal change towards CLME felt by the community members
	↓	↓	↓	↓	↓

<p>I.R.D.S TEACHERS →</p>	<ul style="list-style-type: none"> • Teacher identifying working children in the age group of 8 to 16 years (100% coverage) • Teachers enrolling all the working children in CLME • Teacher conducting weekly contact classes for 4 hours • Teachers following up with child-ren at their work place at home • Organizing children's camp yearly and conducting competitions • Teachers presenting himself / herself as a friend and enabler • Good rapport (one to one) established amongst teachers and students • Teacher will keep track of each students progress • Teacher will maintain and document all records and proceedings of the enrolled children • Regular review of the children progress and encouragement • Facilitating books from the circulation library 	<ul style="list-style-type: none"> • Teacher will maintain good rapport and continue follow up with parents • Teacher keeping informed the parents on the progress of their children • Teacher seeking optimum co-operation for their children's progress in CLME • Teacher conducting regular parents consultations • Teacher establishing free access with the parents to encourage their children's education 	<ul style="list-style-type: none"> • Teacher will maintain good rapport with the employer • Teacher will seek the co-operation of the employer in success of CLME • Teacher will update the progress of the child employers in CLME • Teacher will influence the employer in encouraging the working children to prioritize compulsory primary education • Teacher will involve the employer in CLME consultation and discussions • Teacher will enable the employer to be part of CLME process and success 	<ul style="list-style-type: none"> • Amongst CLME teachers regular consultation sharing and learning • All issues coming up will be discussed amongst the teachers and problems solved • Collective teachers intervention wherever required • Teachers will be updated on the overall CLME process and development • All discussions and consultations minuted • Teachers managerial capacity on CLME developed • Teacher to teacher campaign on promotion of CLME and compulsory primary education for child laborers • Uniformity and policy decisions maintained and practiced • Amongst teachers utilizing the books for reference from the circulation library 	<ul style="list-style-type: none"> • Teacher gains an identity and recognition in the community • Teachers reflections on CLME shared and presented to the community member • Teachers will involve all the key members like Grampanchayath leaders, local leaders, women leaders and government school teachers in strengthening the CLME • Teachers will consistently disseminate information on CLME progress and success • Teachers will enable the community co-operation in successful conduction of CLME • Overall attitudinal change in the community members in extending optimum co-operation and support for CLME Programme
<p>OTHERS →</p>	<ul style="list-style-type: none"> • The general community giving good response to the working children • The community will encourage working children towards CLME and compulsory primary education for all • The community will co-operate and support the CLME towards optimum utilization and success • The community will give a place for conducting the weekly contact classes • The community will share their resources as a co-educator for the CLME students • The community will give due recognition to the enrolled CLME children 	<ul style="list-style-type: none"> • The community will encourage the working children parents education • The community will enquire the parents of working children on the progress of their children • The peoples organisation like mahila mandal will take up CLME as part of their agenda during their monthly meetings • Community will campaign for prioritising compulsory primary education for all 	<p>The community will enable the employer to co-operate in the CLME Programme</p> <ul style="list-style-type: none"> • The community will influence all the employers in promoting compulsory education for all • The community will give due recognition and solidarity to the employers for their positive contribution to CLME • The community (Grampanchayath) Plays a vital role in enabling the employer to relieve for contact classes and success of CLME 	<ul style="list-style-type: none"> • The community will encourage and support the teachers to conduct CLME smoothly in the village • The community will give optimum support to the teachers in regards to the Human Resource, and other resources for smooth functioning of CLME • The community will provide a convenient place to conduct contact classes • The community will enquire from the teachers on the progress of CLME • The community will involve if any issues comes up and supports the teachers in solving the problem 	<ul style="list-style-type: none"> • Amongst community members there is a dialogue going on CLME • The pros and cons of CLME is discussed amongst the community members • Amongst community members there is a campaign towards prioritising compulsory primary education for all • Behavioral change amongst community members on children's education spreads to the nook and corner of the community • There is a seepage effect on the neighboring villages on CLME Programme • Inter community discussion and consultation on CLME enabled and established

CLME SYLLABUS IN TELUGU MEDIUM

(Translated in English)

A. TELUGU

- ▶ National Anthem & Pledge
- ▶ Telugu Alphabets, Words & Sentences – Tambola Game With Alphabets
- ▶ Telugu Functional Grammar
- ▶ Poems, Small Folk Stories, Moral Ethical Stories
- ▶ Self Help Concept
- ▶ Friendship with Animals
- ▶ Patriotism & Children’s Festival

B. MATHS

- ▶ Numbers – Tambola Game With Numbers
- ▶ Addition, Subtraction, Multiplication & Division
- ▶ Percentage, Ratio & Fractions
- ▶ Measurement of Lengths, Capacity, Weight & Time
- ▶ National Currencies

C. SOCIAL SCIENCES & ENVIRONMENTAL STUDIES

- ▶ Earth
 - Its Shape
 - Land & Water Masses
 - Our Country
- ▶ About Andhra Pradesh State
 - Its Location
 - Hills, Plains & Rivers
 - Climate & Vegetation
 - Cropping Pattern
 - Means of Transport &
 - Mineral Resources
- ▶ Andhra Pradesh Forest & Animals
- ▶ Evolution of Man
 - Pre Historic, Historic & Modern
- ▶ Stories From Epics
 - Ramayana & Mahabaratha
- ▶ Our Festivals
- ▶ Social Institutions
 - Post & Telegraphs

- Radio & Television
- Public Libraries & Banks
- Primary Health Centers
- Public Distribution Systems
- Police Station & Electricity Department
- ▶ State Administrative
 - Grampanchayath
 - Mandal Praja Parishads
 - Zilla Praja Parishads
 - Municipalities, Corporations & State Administrations

▶ Traffic & Safety Education

- ▶ Human Body
 - Health, Hygiene
 - Safety & First-Aid

- ▶ Air We Breathe
- ▶ Water We Drink & Food We Eat
- ▶ Clothes We Wear
- ▶ Shelter We Live In
- ▶ Tools & Machines We Use
- ▶ Plants & Animals Around Us
- ▶ Agriculture & Animal Husbandry
- ▶ Health Education
- ▶ Ecology System & Protection
- ▶ Socio-economic Problems - Education

D. GENERAL EDUCATION

- ▶ Village Resource Mapping
- ▶ Visit & Dialogue with
 - Grampanchayath Members, Mandal Officials
 - District Officials
 - Bank Officials & Police Officers
 - Veterinary Hospital & Primary Health Center
 - Electricity Department & Fair Price Shops
- ▶ Theory & Practical on Surrounding
 - Plants, Animals, Dairy Farm, Poultry Farm & Sheep / Goat Farm
 - Agriculture System & Organic Farming
 - Village Artisans

- Self Help Groups &
- Eco Walk – Formation of Children’s Club

- ▶ Peoples Organization & Impact
- ▶ Study in Economics (Demand & Supply)
- ▶ National Income & Population Education
- ▶ Social Stratification & Caste System
- ▶ Child Rights, Legal Marriage Age & Small Family Norms
- ▶ Health Preventive Measures
- ▶ First-Aid Management

E. CULTURAL EDUCATION

- ▶ Communication System & Skills
- ▶ Local Folk Art
- ▶ Street Plays, Dramas, Role Play & History
- ▶ History of Indian Culture
- ▶ Sports Games (Indoor & Outdoor)
- ▶ Rotation Library

6.0 PLENARY SESSION ON THE INTERNATIONAL CRIMINAL COURT

CHAIRPERSON: DR. JAMES ARPUTHARAJ

The December 9 session on the International Criminal Court, chaired by Executive Director, SAP I Dr. W. James Arputharaj, underscored a point raised by Mr. Ravi Nair of India during the inaugural session - that is, the reluctance of South Asian governments to sign or ratify key international conventions. Discussion at the session focused on the urgent need to implement existing laws and conventions that would lead to protection of humanitarian regulations. The particular urgency for ratification of these laws in the South Asian context was stressed. Participants pointed to the special dangers of use of children in warfare and also to the mass annihilation of people and property caused by lack of effective international criminal laws. The Commission on Human Rights specifically recommended that all South Asian governments should sign and ratify the conventions setting up the ICC and additional protocol of the Geneva Convention. It was noted that at the final vote on the ICC statute at the Rome Diplomatic Conference, India and Nepal abstained while Sri Lanka voted against the adoption. Bangladesh has subsequently promised to sign and ratify the statute. Sri Lanka reportedly wanted a separate paragraph on terrorism, but it was stated that adequate provision currently exists to deal with the problem.

6.1. A T M Iftequer Mahmud, Media and Outreach Co-ordinator, Asian Network for the International Criminal Court (ICC)

a) Why South Asia needs an International Criminal Court

On 17th July 1998 in Rome, 160 nations decided to establish a permanent International Criminal Court to try individuals for the most serious offences of global concern, such as genocide, war crimes and crimes against humanity. The agreement was hailed by United Nation's secretary-general Kofi Annan, as "*a giant step forward in the march towards universal human rights and the rule of law.*"

b) The Concept of the ICC

The Rome Statute provides for the Creation of a International Criminal Court, which will be a permanent court that will investigate and bring to justice individuals who commit the most serious violations of international humanitarian law, namely war crimes, crimes against humanity, and genocide. Unlike the International Court of Justice in The Hague, whose jurisdiction is restricted to States, the ICC will have the capacity to indict individuals, and unlike the Rwanda and Yugoslavian War Crimes Tribunals, its jurisdiction will not be chronologically or geographically limited. Although, once the ICC takes effect, it will not be retroactive.

The Statute of the Court, which was approved in Rome by an unrecorded vote of 120 in favour and 7 against, with 21 abstentions, will enter into force after sixty countries have ratified it. This process usually requires the approval of the national legislature. The Statute has already been signed by 96 countries, as a statement of intent to seek ratification, and will remain open for signature until 31st December 2000. The seat of the Court will be at The Hague, in the Netherlands, but it will be authorized to try cases in other venues when appropriate.

c) Structure of the Court

The court will be a permanent judicial body with headquarters in The Hague. It will have jurisdiction only over crimes committed after the Rome Statute enters into force. The ICC is a treaty based body and will therefore not be an organ of the United Nations. It will, however, be closely linked to the UN by means of various formal agreements.

d) Jurisdiction

Crimes within the jurisdiction of the Court are genocide, war crimes and crimes against humanity, such as widespread or systematic extermination of civilians, enslavement, torture, rape, forced pregnancy, persecution on political, racial, ethnic or religious grounds and enforced disappearances.

The Court's Statute lists and defines all these crimes to avoid ambiguity.

And the Statute applies to all persons, regardless of their official position. The Statute explicitly provides that "official capacity as Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility." Therefore, immunity pleas based on official position will not be allowed in proceedings before the Court.

e) Initiation of Proceedings

Court proceedings can be triggered in three ways:

- By the Security Council
- By a state party to the Statute; and
- By the prosecutor acting on her own initiative (*proprio motu*)

f) Principle of Complementarity

There was, as one can easily anticipate, fair amount of debate regarding the court's so called overlap of national sovereignty. Though the notion of national sovereignty is in a waning process but there was possibility pushing this debate ahead by certain countries. The framer of the Statute came up with a notion of complementarity. The future court is fashioned in a way that it would never out weigh the right of the national judiciary to take action against the perpetrators within their realms. The national courts will always have right to proceed with their own course of action. The ICC would take up the situation only in two cases. Article 17 of the Statute says, the Court will take up a situation where the State is unwilling or unable genuinely to carry out the investigation or prosecution. Article 17 (2) further clarifies,

"In order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:

- The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;
- There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
- The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner, which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
- In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings."

The Statute left little space for any skepticism so far as the intactness of the national sovereignty is concerned. The Court leaves the primary responsibility to the national judiciary and is not designed to be an appellate court. The Court would rather supplement the national judiciary instead of creating any parallel forum of justice.

g) Historical Development: The Road to Rome

The idea of establishing a permanent International Criminal Court was first discussed in the wake of the World War I. Article 226 of the Treaty of Versailles signed on 28 June 1919 provided that war criminals, including Kaiser William II, the former German Emperor, would be brought to justice before a special International tribunal to be established charged with having committed the most heinous of crimes against international morality and sacred authority of treaties. Article 228 of the Treaty also requested the German Government to hand over Kaiser who had been charged with committing violation of laws and customs of war. The Kaiser was never tried because the Dutch government, after offering him political asylum, refused to hand him over.

United Nations first acknowledged the need for permanent International Criminal Court immediately after the very inception of the United Nations. The need for the creation of a Permanent International Criminal Court having jurisdiction over the flagrant crimes like genocide, crimes against humanity, war crimes and aggression, first manifested in October, 1946. The Charter of the International Military Tribunal (IMT) at Nuremberg created three categories of offenses punishable by the international tribunal: crimes against peace (aggression), crimes against humanity, and war crimes. Aggression was, as IMT's judgement describes, "*the supreme international crime*". The Judgement of the trial affirmed that, crimes against international law are committed by human beings, "not by abstract entities, and only by punishing individuals who commits such crimes can the provisions of the international law be enforced."¹ Any individual, irrespective of their rank or station, responsible for "planning preparing, initiating, or waging of a war" was guilty of a crimes against peace. The Charter of the IMT went even further stipulating that those proven to be "leaders, organizers, instigators, and accomplices" to the crimes could be convicted. Persons occupying positions of such high responsibility were deemed to possess the required intent and capacity to be held accountable under principles of international and criminal law. The Nuremberg Judgement which laid down as universally binding law that aggressive war is not a national right but an international crime, soon after the Nuremberg an International Congress met in Paris and call for an international Criminal Code prohibiting crimes against humanity and the prompt establishment of the International Criminal Court (ICC). On May 1947, the French representative on the UN Committee on the progressive development of International Law and its Codification proposes an ICC. In the very next year the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crimes of Genocide. This Convention categorically laid down that the criminals to be tried "by such international penal tribunals as may have jurisdiction. " Separately, members ask the International Law Commission (ILC) to study the possibility of establishing of an ICC.

The International law commission initiated studies and came up with draft statutes and reports albeit the pressure-cooker situation due to opposition from powerful states of the both side of the Cold War. Which resulted in the abandonment of the whole effort in 1954 pending agreement on definition of the crime of aggression and on an international Code of Crimes. It took as many as twenty year when the General Assembly agreed on a definition of aggression. Albeit the UNGA's request to the ILC to return to the question of establishing a Code of Crimes, not even the flimsiest of development was to be experienced thanks to the continuing high pressured Cold War Current.

¹ B. Ferencz, Defining International Aggression: The Search for the World Peace, Vol. 1 (Dobbs Ferry New York: Oceana Publishers, 1975)

In 1989, the end of the Cold War made the situation more favorable for the creation of the ICC which paved the way for Trinidad and Tobago, motivated partly to combat drug trafficking, to resurrect the proposal for an ICC. The International Law Commission submitted their Draft statute to the General Assembly in 1993. Meanwhile, by the establishment of the temporary Tribunal for Bosnia-Herzegovina and, later on, in Rwanda for the violation of Genocide and Geneva Conventions International Criminal Justice became one of the most discussed matter after the Second World War. In 1994 the UN General Assembly set up an ad hoc committee on the ICC to review the final draft submitted by the ILC. In 1995 the UNGA established a Preparatory Committee (prep com) to finalize the text of the Statute to be placed at a convention of plenipotentiaries. After three years of prolonged hectic discussion the United Nations Diplomatic Conference on the Establishment of an International Criminal Court, held in Rome, adopted the ICC statute on July 17, 1998.

h) Response by the Civil Society: From an Asian Perspective:

The non governmental civil society organizations played a very active catalysts role in the efforts to establish a permanent international Criminal Court - and the road leading to the 1998 Rome Conference and subsequent ratification campaign. Members of NGOs have been participating as observers, lobbyist, advisers, and members of national delegations at all the preparatory committee meetings and at the Rome Conference. And they still are continuing their struggle at the Preparatory Commission meetings for drafting rules of procedure and the elements of crimes at NY.

NGOs formed the Coalition for the International Criminal Court in 1995 to advocate the creation of the just, impartial, and effective ICC. In Asia the Asian Network for the International Criminal Court was set up to further the Coalitions efforts all over Asia, with its two sub regional focal points, Human Rights Commission in Hong Kong and Forum Asia in Bangkok. With this combined effort the ICC campaign in Asia has attained a momentum. Unfortunately, in South Asia the picture is not as shiny as other parts of Asia but growing demand of people are certainly going to change the scenario pretty quickly.

i) Response from the Governments

A number of Asian countries, particularly the Republic of Korea, Philippines, Singapore and Brunei, have played a very important role along the past few years at the UN negotiations as members of the "Like Minded" group - an informal forum of countries that have agreed in certain core principles regarding the effectiveness and fairness of the future ICC.

From Asian region, 16 countries have already signed the treaty, which indicates their favorable political will towards future ratification. The government of Bangladesh has announced that it will soon ratify the Rome Statute and meticulous study on the necessity to enact enabling legislation previously to signature and ratification is being conducted in many countries. However, these steps are not sufficient to outweigh the fact that Asia is still lagging behind in yet another endeavor of creating an international accountability regime. Moreover the success of the International Criminal Court, in particular, depends, crucially, on the equal participation of all the regions of the world by way of ratification or accession, not only to support the presumption that the Statute is blend of all the major legal systems of the world but also for the fulfillment of it in future.

But in South Asia the picture is not very pleasant so far as ICC ratification of ICC statute is concerned. Only Bangladesh has signed the Treaty. And, to the best of my knowledge, this figure is going to be the situation for quite some time. Some views and comments of the Asian Governments at and after the Rome Conference are quoted below.

Bangladesh: Voted in favor in the Rome Conference. Bangladesh, which had been a victim of genocide during its liberation struggle took great satisfaction in the observation that the Statute had discarded the age-old concept of impunity under the shield of State.

India: Abstained from Voting at the Conference arguing, "the Statute had legitimized the over stretched interpretation of the powers of the Security Council by subordinating the future Court to the discretion of the five permanent members of the Council. "India also argued that" It is ironic that the Statute treated offenses such as murder as an international crime, but failed to include the first use of nuclear weapons, which would result in the annihilation of a major part of humanity."

Pakistan: Though voted in favor failed to sign the Statute before the deadline. Their position on ICC is currently not clear as to whether they will ratify the Statute or not. Pakistan believed that it was essential to permit reservations to the Statute with a view to ensuring that States were not initially deterred from becoming parties to it and that States that were already parties did not later withdraw. However, it had voted in favor of adoption of the Rome Statute since it was confident that the Preparatory Commission would make every effort to alleviate the serious concerns, which it articulated.

Sri Lanka: Abstained from voting though they officially stated that "We recognize the great importance attached to the establishment of an International Criminal Court, "but it abstained because the crime of terrorism was not included in the Statute.

j) Importance of Mobilization in Asia:

Asia, claimed by many as the most peace loving and humane continent of all, continues to experience war of various nature and form all over the continent. Some of them are as deadly as any people could think of, like those in Arab or in Timor. But many other countries are still carrying the scourge of killing and bloodshed that are as devastating as those of Vietnam or Cambodia. Sri Lanka for instance has attained a status where people have almost left the dream of a peaceful island without any bloodshed.

Some of the more terrifying crimes of international significance of the last half century have taken place in Asia. However, the governments' consciousness about the necessity to address the scars left by crime and impunity varies. Some countries have taken steps to deal with the important issue of memory, justice and reconciliation, while in others, this is still an issue that is kept apart from public debate.

In Bangladesh, for instance, the massive abuses suffered by the population during their independence war in 1971, prompted successive governments to ratify various international treaties protecting Human Rights. On the other side, the Cambodian government still expresses doubt about how to proceed to put closure to the legacy left by the genocidal Khmer Rouge regime. In countries like Indonesia and Myanmar whose civil societies are actively committed to re-democratization, the issue of how to deal with past atrocities will be an important test for the strengthening of rule of law. Recent atrocities and crimes against humanity conducted by armed militias in East Timor, again showed that human civilization is not matured enough to behave with humanity and dignity.

Asia is the only continent where governments have not been able to produce a comprehensive Human Rights declaration and the instruments to uphold it, such as a Commission or a Court. The current campaign towards the establishment of the Court could raise awareness about the necessity to ratify other important Humanitarian and Human Rights instruments, as well as about the importance to bring internal legislation in line with the duties established by those treaties.

International law can be an exceptionally useful tool to ensure that the future of Asian peoples is protected from abuses by criminal regimes or occupying armies. A permanent International Criminal Court, capable to deter individuals planning aggressive wars, genocide, crimes against humanity and war crimes is essential for a future of peace and justice in the region. Asia needs the court urgently in order to deal with horrible crimes committed in some of its long standing wars and armed conflicts in the region.

Despite the laudable achievement on international level, in many countries in Asia, the public is largely unaware of the creation of the ICC. It is therefore urgent to disseminate in the region the good news of the future establishment of this Court and gain more support for its establishment. If a public awareness campaign is not intensified and considerable pressure is not put on state authorities, ratification from Asia will be very slow.

k) Why South Asia should back the creation of the ICC

South Asia is an important region. This is the region, which has two countries with nuclear warheads, a large chunk of world population, extreme poverty, numerous ethnic and religious groups complexly intermingled with each other in a way which is not the most harmonious of ways. It had its fair share of international crimes typified in genocide in Bangladesh in 1971 and internal armed conflicts in number countries. Most countries in South Asia have experienced internal armed conflict of some form. However, the perpetrators of these crimes, both state and non-state, have enjoyed a great extent of impunity. We failed to do anything but only to let those victims-survivors live with gruesome memories. This glum backdrop indicates how enormous significance the formation of the International Criminal Court holds for the South Asian Countries.

l) Conclusion:

It is said that today's conflicts are often rooted in the failure to repair yesterday's injury. The fight against impunity is not only a question of justice but is also inextricably bound up with the search for lasting peace in the post-conflict situations. Unless the injuries suffered by the victims and their families are redressed, wounds will fester and conflict will erupt again in the future. Accountability is therefore an indispensable component of peace building. We do have an opportunity put a halt to the culture of war and impunity. The ICC can be an answer to that. It is our time to act and build a more peaceful world.

I wish to end my speech with a quotation of Kofi Annan, Secretary General of UN, made at the Rome Conference.

"We have before us an opportunity to take an monumental step in the name of human rights and the rule of law. We have an opportunity to create an institution that can save lives and serve as a bulwark against evil. We who have witnessed time and again in this century, the worst crimes against humanity, have an opportunity to bequeath to the next century a powerful instrument of Justice. So let us rise to this challenge. Let us give succeeding generations this gift of hope. They will not forgive us if we fail."

7.0 **ADDITIONAL FEATURES OF THE SUMMIT**

A series of lively and interesting activities were included within the programme of the People's Summit

7.1 **Debate – “ Does the Nuclear bomb make South Asia more secure”?**

A debate among students from Sri Lanka and India (Mumbai and Chennai) was held on 09th December 2000. The participants were Mr. Amol Rao of R.A. Podar College of Commerce and Economics, Mumbai, Ms. Yathi Venkatesh from Madras School of Work, Chennai and Malinda Tillekeratne of St. Thomas College, Mount Lavinia, Sri Lanka. Amol Rao and Yathi Venkatesh attempted to establish that the nuclear bomb is not the solution to any problem in the region. Amol focussed on the fact that the student community in India was uninformed about the real magnitude of the problem. Opposing them was Malinda Tillekeratne with the proposition that South Asia needs a nuclear bomb to make it a safer place. Mr. Amol Rao was judged the best speaker. Ms. Yathi Vendatesh was the runner-up.

7.2 **South Asian Film**

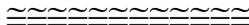
On 10th December 2000 a film depicting the current Sri Lankan civil war was shown. Entitled “*This is My Moon*”, produced by Mr. Asoka Handagama, this film had been acclaimed at the recently concluded London Film Festival. The film evokes the tormented life of a village on the edge of the War Zone.

7.3 **South Asian Cultural Show**

A varied and representative programme of cultural activities was presented at the Sri Lanka Foundation Auditorium on 08th December 2000. The programme included presentations of traditional Kandyan Ves Dance and Dance from the Middle East by Channa and Upuli. Presentations from Baratha Natyam, Banghra Dance and Gypsy Dance were also made. Students of Alethea International School presented two western dance items.

7.4. **March for Peace**

On the final day of the People Summit a march for peace was conducted. Over 200 participants marched to Lipton's Circus and back as a show of solidarity of NGOs, local and foreign delegates, representatives from Civil and Women's Movements, Trade Unions and school children.



8.0 VALEDICTORY SESSION

CHAIRPERSON: MS. BUSHRA GOHAR

The Summit came to a close with the Valedictory Session held on 10th December in the afternoon. The Session was chaired by Vice Chairperson, SAP I, Ms. Bushra Gohar. There were suggestions from the House as to future developments and some dissent with a few recommendations. Ms. Gohar directed that any reservations / observations be submitted in writing. She stated that all documents will be carefully examined prior to acceptance and that there was a need to strengthen existing efforts.

Dr. James Arputharaj explained the planning and procedures of the Summit. The process was started six months before the event and wide publicity was given. An advertisement on the Website was provided and based on this Mrs. Jezima Ismail was requested for an interview by the B.B.C . The 'mailer' had been sent to all networks in the region. Dr. Arputharaj went on to explain the proceedings of the Peoples Agenda and Recommendations. He stated that within 15 days the Draft Peoples Agenda and Recommendations will be forwarded to all the delegates to obtain their views and suggestions.

The invited speaker was Mr AT. Ariyaratne, President, Lanka Jathika Sarvodaya Sangamaya. Thereafter the moderators duly presented the recommendations of the various thematic commissions.

8.1 Dr. A. T. Ariyaratne, President, Lanka Jathika Sarvodaya Sangamaya.

SYNOPSIS OF SPEECH

Dr. Ariyaratne recalled the uprisings of the late 1960s when all over the world young people rebelled against existing structures and actively violated the norms of their societies. There were others who adopted more conventional lines yet were equally revolutionary in their thinking. Dr Ariyaratne referred to an experience where he shared a tent with over 1000 young persons. The other adult who shared this experience was Mr. Richard Harmston. The entrance to the tent carried a banner which said "We are the children our parents did not want." These words, the speaker remarked, made him realize one fact – that the problems of individuals and consequently of society start at the very inception, in the mother's womb. He went on to comment on the value of community based organizations, some of which have had roots in the distant past. He identified the of strength such communities as being in the principles they adopted and not in the arms they possessed. The speaker pointed to seven invaluable principles practiced by these communities:-

- a.) to meet as frequently as possible.
- b.) to meet peacefully, discuss peacefully and disperse peacefully.
- c.) to accept the guidance of wise and educated persons within the community.
- d.) not to impose laws which cannot be enforced. For instance Dr. Ariyaratne stated in Sri Lanka, there have been many progressive laws pertaining to children during the last three years. But many of these cannot be easily enforced. One area that problems have arisen in is that of child molestation. Often the victim of such situations is treated in similar manner to the perpetrator by both the police and the community. Therefore, Sarvodaya set up three centres to help deal with the problem. One is for Hindu and Buddhist children on estates (as the Christians already have establishments).The second is at the Sarvodaya Centre and the third is under construction in Ratmalana.
- e.) to respect women and children

- f) to heal the mind i.e. since all problems begin in the mind a stream of consciousness is created that is stronger than nuclear energy. This force should be channeled to create peace. Peace in the mind will then spread to the family and thereby to the community.
- g) to heal society. In the speaker's opinion the acceptance of colonialism is the underlying cause of many problems in society. He stated that globalization is the worst type of neo colonialism that has emerged today. Professional politicians are responsible for most of the violence, poverty and environmental destruction that is witnessed today.

He expressed the belief that the best approach is the community based one and hopes that SAP I will play a leading role in the formulation of a new future.

8.2 **Vote of Thanks** was given by Dr. James Arputharaj, Executive Director, South Asia Partnership International, Sri Lanka. He thanked those who participated, some of whom had traveled a long distance to be present at the event. He expressed his specific appreciation of the contribution made by the following:-

- ⊖ The delegates from the South Asian Region everyone of whom he considered a VIP.
- ⊖ The Event Manager
- ⊖ The Secretariat Staff of SAP I
- ⊖ The Networks
- ⊖ Rapporteurs Facilitators and Moderators
- ⊖ Mr. Kingsley Rodrigo organizer of the Peace March and the Art Exhibition.
- ⊖ The Summit News agent
- ⊖ Coordinator of the films
- ⊖ The drivers
- ⊖ International Board of Directors
- ⊖ Donors

8.3 **Closing Remarks** were made by Mrs. Jezima Ismail, Chairperson, SAP I, Sri Lanka.

Mrs. Ismail noted the People Summit had been an exhilarating , although at times an exhausting experience, for all participants. She stated that at the inaugural session she was filled with trepidation and a sense of gloom as often in the South Asian region people seem enmeshed in their own problems. Although this fact cannot be denied, Mrs Ismail observed that the sense of solidarity provided by the South Asian regimes, together with Canada, had engendered hope and positive feelings. She believed that the Summit had been a success but commented that the realization of this lies in the future. The challenges that have to be faced are expressed explicitly in the recommendations made and she hoped that the peoples' representatives present at the Summit would have the capacity to meet them. Mrs Ismail commented that the Summit had followed Dr. Ariyaratne's first principle of meeting regularly and discussing peacefully and she believed it was time now to disperse peacefully.



9.0 RECOMMENDATIONS & PEOPLE'S AGENDA

South Asian People's Agenda 10 December 2000

We the people, representing civil society organisations from Bangladesh, India, Nepal, Pakistan and Sri Lanka, who have gathered here to re-affirm our solidarity to our mutual struggles of South Asia, re-affirm our commitment to restore human rights for all men, women and children. Promote justice, democracy and participation of all peoples in governance at all levels of society. Campaign for making nuclear free South Asia a reality and to completely free the world of nuclear weapons. Appeal to all nations across the world in the region, to ratify the Statute for an International Criminal Court – Rome UN Treaty.

Towards this, we call for the immediate convening of the SAARC Summit.

We pledge to continue our efforts in a participatory manner to find solutions to our problems both common and regional.

We urge the Governments of the region to create the necessary socio-economic and political conditions to promote unity in diversity, and peace and understanding, and towards that end, work to actively roll back programmes of militarization and nuclearization.

Recognizing that the global order of governance is responsible for many of the ills in this region, we will continue to promote processes and actions for an equitable and just global governance, and for a balanced and equitable international social, economic and political order and to educate people on that responsibility as world citizens caring for the neighbour and the environment.

We salute the courage of internally displaced people in this region and appeal to all including Governments that there be powers to respect their dignity, human rights and aspirations.

Towards the goal of eradicating economic poverty from the region, we will continue to strive for just and democratic patterns of economic development that are based on the creation of a more equitable control over economic and natural resources. Towards that end, we will strengthen the alliances of peoples movements, trade unions, peasant organisations, children's organisations, CBO's and NGO's.

Our goal is to create a self-reliant, independent, peaceful and just region.

It is our wish and belief as people of South Asia that the Agenda delineated above shall surely lead the region to justice, peace and prosperity.

To pursue the above said People's Agenda, we declare the launching today of the South Asian People's Forum (an NGO Forum) that unites all Civil Society Networks and institutions which endorse the above vision in the region.

This Summit resolves that the Civil Society Organisations and their networks represented have set up six independent South Asia Commissions, comprising leading non-governmental experts and eminent personalities, to oversee the progress of South Asian Nations in the following areas.

1. Human Rights & Human Development
2. Reducing Poverty
3. Peace and Regional Cooperation
4. Governance
5. Protecting the Rights of the Child
6. Empowerment of Women.

Each Commission may comprise a representative each from the SAARC countries and meet at least twice a year to consider annual and other occasional reports that national level commissions (to be set up under this scheme) submit and direct their responses to national, regional and international concern groups and bodies for information and action.

Based on the reports received from national counterparts, the six Commissions together may publish bi-annually a Report titled Progress of South Asian National. The report could be six parts representing the concern areas of the six commissions.

The People's Agenda is further elaborated as follows:-

9.1 COMMISSION ON PEACE AND REGIONAL COOPERATION

PREAMBLE

South Asia is one of the most strife-torn and militarized regions of the World, with numerous ethnic conflicts raging within and across the borders of the states.

It is also one of the poorest regions of the world, with appalling indices of poverty, deprivation, discrimination against women and social injustice.

These two features are related.

Redressing this unacceptable situation calls for comprehensive measures of demilitarization, democratization, empowerment of women, social reform and evolving social development.

With the militarization of India and Pakistan since May 1998, South Asia has become even more dangerous and volatile. The probability of a nuclear catastrophe here is higher than during the Cold War at least since the Cuban Missile conflict of 1962.

This calls for urgent steps for nuclear constraint and disarmament, including an immediate freeze on India's and Pakistan's nuclear weapons and missiles programmes, and a possible materials ban, leading to the demilitarization of South Asia along with separation of nuclear warheads from missiles and actual disarmament of nuclear weapons elsewhere in the world.

It is imperative to confront root-causes of the war and violence which engulf much of the region. As a first step, we must stop the hemorrhage of precious human life and huge amounts of scarce resources by adopting correct steps for ceasefire of hostilities, de-escalation of constraints in resource and reconciliation including full demilitarization.

Sustained reconciliation and lasting peace cannot be achieved unless issues of the people's security, including social empowerment, economic security, equity and ecological justice are seriously addressed.

This task requires the full demilitarization of the states of the region, and the establishment of participatory governance which is responsive to the masses and their unfulfilled needs. Such a process must involve the recognition and institutionalization of equal rights for all citizens, and non-discrimination against the ethnic minorities. This means combating the manifestations of bellicose nationalism that are growing in our countries.

Civil Society organisations have an irreplaceable role to play rectifying the present situation by combating structural violence, promoting democratic society and humane and equitable development.

An important item of this agenda is regional cooperation. South Asia is probably the world's single region with the largest population (more than 1.2 billion people) without an economic or trading block. Despite the unique commonalities among South Asian countries in economy, culture, political structures, there is a growing gap and absence of exchange and expectation in these areas.

There is an imperative need to redeem this situation. Free Trade within South Asia alone would help to save \$ 7 billion and more than double the amount the region receives in direct investment and several times the flows of aid to the region.

There is much scope for greater exchange cooperation and interaction between countries of the region, including governments, civil society organisations and ordinary citizens for free movement of people, trans-border media exchange, intensive cultural transactions, and joint programmes in the social services, science and technology.

RECOMMENDATIONS

- (1) **The Conference:** *endorses the earlier recommendations made by the various conferences held in the Region by organisations and groups engaged with issues of Peace and Regional Cooperation, such as the:*
 - (a) Pakistan – India People’s Forum for Peace and Democracies. Bangalore Convention **(March-April 2000)**
 - (b) South-Asian / South East Asian Conference against nuclear arms, held at Dhaka **(February 2000)**
 - (c) Indian Coalition for Nuclear Disarmament and Peace (CNDP) Convention held at Delhi **(November 2000)**
 - (d) Pakistan Peace Conference (February) 1999.
- 2) Endorse the decision of the above conferences to form a South Asian Peace Coalition and urge the participants to support and promote the work of the Organising Committee formed at Dhaka.
- 3) Endorse peace groups to actively engage in peaceful resolution of both inter-state and intra-state conflicts prevailing in the South Asian Region.
- 4) Demand of all South Asian States to declare and observe year 2001 as the Year of Cease-fire and recognising that all parties to a dispute commit themselves to democratic and peaceful resolution of conflicts.
- 5) Seeks to work collectively to make South Asia a nuclear free zone and to promote this objective, organise a South Asian Conference on NWFZ some time during 2001.
- 6) Call for an immediate holding of the official SAARC Summit to address the Social, Political and Economic problems faced by the people, and to undertake urgent steps to implement the agreed cooperation measures, such as SAFTA, relaxation of visa restrictions, enhanced unrestricted exchanged of goods and services among the people in the region.
- 7) Urges this Conference to set up people’s groups to interact with the official SAARC mechanisms and to promote people’s ideas and aspirations - viz South Asian Regional Cooperation. It urges work for obtaining observer status for the South Asian Peoples Group (collective) with the official SAARC.

9.2 COMMISSION ON GOVERNANCE : LOCAL AND REGIONAL

PREAMBLE

The commonalities and specifications that inform the problems of governance in South Asia generally and the issues of local and regional governance particularly, have been thoroughly discussed in the presentations, deliberations and discussions of our Commission. A number of recommendations were issued..

RECOMMENDATIONS

1. The legacy of overcentralised post – colonial governance in South Asia requires decentralisation of powers from Central governments to State and Provincial governments and devolution of powers to Regional and Local governments based on the principle of subsidiary, ie: whatever can be done at the lower level should not be done at the higher levels. In this process, there should be no attempt to bypass the legitimate sphere belonging to the state or provincial levels.
2. Constitutional cover be provided where necessary and violation of constitutional provisions where they already exist, be prevented, to ensure the existence and growth and functioning of local governments to prevent the past neglect and manipulation for partisan political purposes, of local government powers and functions.
3. There should be a clear division of powers between Central, Provincial or State, and Local governments. Concurrent lists of subjects in the Constitution should be abolished and those subjects transferred to the provincial and state governments.
4. Legally recognised rights and powers of local bodies such as panchayats and village councils be accorded protection and retained.
5. Traditional forms of conflict resolution bodies such as ‘jirgas’ in tribal areas, which disempower women and uphold ante diluvian codes of so called honour should be replaced by democratic local bodies.
6. Joint electorates, where not available, be restored to extend equal rights of representation and enfranchisement to religious minorities and ethnic communities.
7. In the interests of positive, affirmative representation and enfranchisement of women and other marginalised groups, communities and sections of the population, reservation of seats ensured in all tiers of government, local to national, until such time as they are able to participate in the democratic process as full co-equal citizens. Serious efforts be initiated and carried through to create an enabling environment for such full unfettered participation. Local government decisions, functions and operations be open to the public, with the wherewithal provided for regular dissemination of information to the electorate concerning all these matters.
8. Access be provided to all citizens to call for and scrutinize records. Public audit of local government finances be instituted.
9. Direct elections for all tiers of local government be adopted where this is not presently available.

10. Allocations of state resources for discretionary use by elected representatives be abolished, particularly for state, province or nationally elected representatives.
11. Institutional arrangements be set up or strengthened to ensure effective participation and functioning of women and other marginalised groups in local government through enabling skill enhancement, confidence building and overcoming traditional biases and prejudices on the part of men and other privileged groups.

9.3 COMMISSION ON HUMAN RIGHTS & HUMAN DEVELOPMENT

PREAMBLE

Fundamentally, South Asia adheres to Human Rights Laws of international bodies. However, unlike other regions which enacted Human Rights laws to accommodate their specific criteria, South Asia lags behind in setting up implementing bodies on Human Rights law, peculiar to its regions.

Furthermore most countries, with the exception of South Asian states, have instituted the Bill of Rights in their national constitutions whereas the South Asian constitutions have judicially enforceable economic and social statutes. However, though enacted, these statutes fail to reach the masses. Special commissions to address specific socio-economic issues are a recent phenomena in South Asia. Nepal has its own Human Rights Commission in practice currently, while the Human Rights Commissions in India and Sri Lanka have existed for five years and two years, respectively.

Although India has HRC at the Regional level, decentralisation of the Commission in practice would reach the regions only if the people are educated on the existence of these commissions.

There is a need for a South Asian Regional Commission encompassing the whole of South Asia to address the following rights.

- v National Security Laws
- v Women's Rights
- v Indigenous Group Rights
- v Socio-Economic and cultural rights across the region, not unlike the European Commission.

United Nations General Assembly on Human Rights has recognised not only the individual's right to development but also the development ambitions of developing economies.

The World Bank and other multilateral organisations lay down conditionalities before granting aid to countries. These take the form of sound financial discipline and macroeconomic policies like liberalisation, privatisation, free markets, structural adjustment and so on. As newer priorities emerged, technical and financial assistance was linked to concepts like human rights and good governance.

Socio-economic and cultural situation

The changes in Sri Lanka's labour laws were due to the fact that the need has arisen for such laws following the 1977 open market policy.

Special emphasis was placed on right to Supreme Court for redress of workers, justifiability of the violation of fundamental human rights, etc.,

Other areas of concern are: rights of persons in uncleared areas, since these persons are discriminated in the provision of basic needs – such as health services, education etc.

RECOMMENDATIONS

1. The Commission recommended that South Asia should establish Human Rights Law enforcement bodies to address issues such as:
 - v The militarisation of regions
 - v The constitution of special courts and commissions circumventing normal court procedures.
 - v Violation of human rights by non-state armed groups etc.
2. Access to water (and food) are basic human rights. We resolve that the peoples rights to water in our region should remain unrestricted and not controlled to the detriment of health and livelihood.
3. South Asian governments should sign and ratify the conventions setting up the International Criminal Court and Additional Protocol of the Geneva Convention.
- 3(a) Since none of the South Asian governments have signed the 1951 Refugee Convention, we resolve that the governments should, in association with the people, formulate a Convention on Refugees in the South Asian Region.
4. One of the crisis in human development is the declining *Social capital* – a condition of great significance in South Asian culture and society. (One of the effects of globalisation). We resolve to promote the strengthening of this ingredient of social coherence which is vital to the activism of civil society.
5. Internally displaced persons (IDPs) by either man-made or natural disasters need protection. We resolve that South Asian governments take measures collectively and individually to provide humanitarian assistance to these vulnerable groups who fall outside the mandate of international assistance.

9.4 COMMISSION ON EMPOWERMENT OF WOMEN

PREAMBLE

During the last two days, the Commission on Empowerment of Women have had presentations on the Empowerment of Women in the perspective of each country represented under the South Asia Gender Network (SAGN). The countries are:-

- Bangladesh
- India
- Pakistan

The recommendations are on the basis of deliberations by the speakers, discussions, debates and a video film presentation on theatre and violence against women worldwide.

RECOMMENDATIONS

1. South Asia Gender Network (SAGN) should be reorganised under the aegis of South Asia Partnership Bangladesh, within a period of three months. After reorganisation, the members of this network would meet twice in a year in their respective country and annually on a regional basis. The activities of this network should be evaluated and monitored by South Asia Partnership in each respective country on a quarterly basis.
2. The participants recommended direct election of women members to the National Parliament in each country instead of the present practice of indirect election to the reserved seats for women.
3. With regard to the local level it was recommended that the example of Panchayat Raj System in the Indian State of Kerala may be adopted in the other regions.
4. It is recommended that functional education programmes should be introduced with priority in **three** areas.

Literacy, Health (specifically reproductive health) and Economic Interventions.

5. It is recommended to re-define “development” to focus on the culture of women’s development. Promote the expression of cultural oppression of women through theatre and performance acts. Animate discussion among groups of women to develop their self-confidence, courage and finally empower them.
6. It is recommended that experience of successful countries on women’s empowerment and advocacy programmes should be shared by all at the regional level.
7. Capacity building and leadership training programmes for women leaders should be designed and implemented on a continuous and comprehensive scale in each country.
8. Creation of women “mentoring” groups should be initiated for promotion and development of other women.

9. Documentation of best practices, establishment of role models of successful women should be encouraged.
10. Strong partnerships should be developed with the media for portrayal of positive images of women.
11. Micro finance / credit programmes should not be focussed only on the quantitative assessment of economic independence, but should emphasize the qualitative changes and achievement in the women's lives.
12. All organisations in the region should consider the Human Development Report 2000, as the building block. All organisations should develop a Code of Empowerment, set of standards / indicators to measure their achievements and measure themselves to ensure accountability for their activities.
13. To protect the poor rural women from the clutches of religious fundamentalism, women's organisations and NGOs working on human rights issues should lobby, advocate and campaign to the governments of their countries to ensure protection for these women and any other acts of violence against women.
14. Laws made to prevent violence against women should be appropriately implemented and the violators should be punished.
15. The government, non-governmental organisations, women's organisations, members of civil society and citizens, should all collaborate and co-operate, to present a society based on justice, equality, development and peace for our future generation.

9.5 COMMISSION ON THE RIGHTS OF THE CHILD

PREAMBLE

The SAARC Summit decision to eliminate all forms of child labor by 2010 should be fully implemented. The process should be such that the withdrawal of children from work places would not cast them into greater hardships and exploitations.

Observing that the governments have not made a comprehensive action plan to eliminate child labour we recommend that all countries should make definite action plans.

SAARC Governments must gear themselves to implement fully the Jom Tien decision of making qualitative primary education free and compulsory for all children.

We need to ensure that all children have access to an education that is appropriate, relevant and at least compatible to the formal system.

RECOMMENDATIONS

1. Children's participation should be elevated from present tokenistic levels to active, equal and informed participation in all decisions concerning them. Structures and mechanisms should be promoted in each of the countries to engage the children, according to their evolving capacities in determining what their "best interests" are.
2. Recognise the special needs of children and that they should be protected from any form of exploitation or abuse. However all actions or interventions must keep the best interest of the child as uppermost.
3. Ensure that all children have access to an education that is appropriate, relevant and at least compatible to the formal system.

This education should also include information and skills that empower children, enable them to resolve conflicts, understand reproduction and manage their health.
4. SAARC countries must expand the scope of the National Monitoring Committees and convert them into permanent National Commissions on Child Rights.
5. Children should have access to information. The children must be given appropriate opportunity to examine and comment on the National CRC reports and draft legislations concerning them before they are finalized and thus to be part of the entire process and provide the scope for decision making. Structures necessary for these at national and sub-national levels should be promoted by the government and civil societies.
6. The civil societies should help children to establish children's lateral and vertical linkages between and among different children's organisations, intra and internationally; help federate their groups at the local, national and regional levels as an effective social movement, which finally could be consulted by SAARC on issues related to children. The SAARC Summit should be supportive of this.

7. Reporting process should start with adequate opportunities to children and civil society groups to submit their reports for government consideration. The process should ensure that the government, civil society and children meet at a point and synchronize their reports when finalising the official report.
8. The children should have access to information such as contents of the CRC Report, etc., and given opportunities to participate and provide the scope for decision making.
9. SAARC member states must develop and implement a common charter or code of ethics to address the portrayal of violence against children in the media.
10. SAARC should have its own regional reporting mechanism, where the member states are required to submit the reports bi-annually. Reporting every five years to the UN Committee on CRC is inadequate.
11. Preceding the official event, Civil Society Networks must come together and set up a Regional Commission on Children and issue bi-annual State of the South Asian Child Reports for SAARC consideration.
12. Civil Society Networks must enable and facilitate a South Asian Children's Commission on Rights of the Child by, of and for children. These Commissions should have consultative status within the SAARC.
13. These Commissions should be set up at national level. The governments at all levels are urged to consult these committees on the well being and rights of the children on matters concerned.

The foregoing agenda for people of South Asia requires moral and resource support of all concerned parties – national and international who subscribe to the principles embodied therein.

