

STATUS OF REGIONAL COOPERATION IN SOUTH ASIA

**A Critical Assessment of the South Asian
Association for Regional Cooperation (SAARC)**



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Introduction

The South Asian Association for Regional Cooperation (SAARC) is the only platform for regional cooperation in South Asia, which recognises the region as a single geo-political entity. There is no other institution that integrates the entire subcontinent or presents itself as a mechanism that can provide a collective approach to connectivity, energy related challenges, climate change and other issues that require a united regional response.

SAARC initially comprised of seven South Asian nations of India, Pakistan, Bangladesh, Nepal, Bhutan, Sri Lanka and Maldives. Afghanistan joined the grouping in 2007 during the 14th SAARC Summit in New Delhi.¹

SAARC has a wide spectrum mandate for the region, ranging from achieving peace, freedom, social justice and economic prosperity to promoting a shared understanding, good neighbourly relations and meaningful cooperation.² Over time, SAARC has added Australia, China, the European Union, Iran, Japan, South Korea, Mauritius, Myanmar and the United States as observers.

However, even 34 years after it was formed, SAARC has never worked to its full potential as a vibrant regional organisation. Today it is in grave danger of becoming dysfunctional and even irrelevant, as it is sought to be replaced by forging sub-regional cooperation, and there

¹ Afghanistan inducted as 8th member: 14th SAARC summit begins; Dawn. <https://www.dawn.com/news/240651>

² See 'Charter of the South Asian Association for Regional Cooperation', <http://saarc-sec.org/saarccharter>

is a marked preference for bilateral ties over those encompassing the entire region.

Is the India-Pakistan relationship the only black hole that is sucking SAARC into self-destruct mode? Can it be revitalised? What role can South Asian civil society organisations play in the revitalisation of SAARC through an agenda of promoting democratic governance and respect for human rights?

There are some however, who believe that under the current regional and international climate, SAARC cannot move forward. “Regional cooperation is declining the world over. A basic requirement of regional cooperation is open borders and borders are closing even in the European Union. The formation of SAARC took place in the context of the foundation of the European Union and ASEAN. We in South Asia also thought that we could go their way and formed SAARC without taking the ground situation into account, that being conflict-ridden this region was not amenable for cooperation,” argued Prof. Lokraj Baral.³

He also does not see much of a role for human rights or other civil society organisations in the revival of SAARC. What can civil society organisations do when no one listens to them?” he asked.⁴

This document discusses a brief outline of the origins of SAARC and its functioning. It subsequently tries to understand how South Asian civil rights and human rights organisations could reorient themselves and evolve modes of working effectively at a regional level through the framework of SAARC.

³ Op.cit. Interview with Prof. Lokraj Baral.

⁴ *ibid.*

When regional cooperation was the dominant flavour

In hindsight, it might be said that South Asia was never a geopolitical region with great potential for cooperation. The subcontinent has a history of partition and complex conflicts for which there are no easy solutions, combined with the fragile democratic institutions of its member countries. Equally, it can be argued that SAARC was first conceived precisely for the purpose of overcoming a conflict-ridden history and build a prosperous and peaceful future together.

The idea of SAARC was first proposed by the then Bangladesh president Ziaur Rahman in 1979 in the context of the success of the European Community and the Association of South-East Asian Nations (ASEAN). If these regional groupings could succeed there was no reason why the coming together of a region with shared history, languages, culture, and traditional people-to-people links would not be seen be advantageous for countries which were part of the same land mass (Pakistan, India, Nepal, Bhutan, Bangladesh) or were separated from each other by narrow stretches of sea (Sri Lanka and Maldives). Yet when the inaugural SAARC summit took place in Dhaka in December 1985 the member countries, especially the largest country India, approached it cautiously.⁵

Although regional cooperation seemed to be the flavour of the time, President Ziaur Rahman's proposal reflected several concerns rooted in the developments during the period 1975-79. Among others, his proposal seems to have been driven by the fact that Bangladesh's application to join ASEAN had been turned down; Ziaur Rahman also wanted his *coup d'état* legitimised by the neighbouring countries, especially India; the countries of the region were faced with a balance of payments crisis which had been worsened because of the second oil shock of 1979; the numerous North-South dialogues had failed;

⁵ Dixit, Abha, SAARC: Toward Greater Cooperation; Institute of Defence Studies and Analyses, <https://www.idsa-india.org/an-jul-5.html>

the developed countries were becoming protectionist; and the security situation in South Asia had deteriorated after the Soviet invasion of Afghanistan. In this context, Ziaur Rahman's initiative became appealing to South Asian leaders who saw in it an opportunity to improve mutual understanding and deal with existing conflicts before they worsened.⁶

Another reason why SAARC appealed to the smaller countries in the region was because they felt that in bilateral relations India played favourites – offering favourable trade and economic deals to some countries in the neighbourhood and denying it to others. The SAARC mechanism was therefore seen by the smaller nations as a mechanism which could create greater equality in trade and economic relations in the region. Smaller countries in the region – Nepal, Bhutan, Sri Lanka and Maldives – therefore welcomed it.

India and Pakistan were initially sceptical of the proposal. Pakistan suspected that the proposal was part of Indian strategy to organise other South Asian countries against it and consolidate a regional market for its produce. India was sceptical that SAARC may be an attempt by smaller countries to create a forum for applying collective pressure on issues that affected them individually. Despite the fear of a “ganging up” against it, India could not oppose the concept and then be dubbed hegemonic.

India was perhaps also apprehensive that some foreign powers might want to increase their influence in the subcontinent's security policies in view of the Soviet invasion of Afghanistan. It did not want any aspect of a member country's security policy to become a part of the mandate of the proposed regional body. In deference to Indian wishes, Bangladesh dropped all references of security matters from its original draft.

⁶ Iqbal, Jamshed Muhammad, SAARC: Origin, Growth, Potential and Achievements; http://www.nihcr.edu.pk/Latest_English_Journal/SAARC_Jamshed_Iqbal.pdf

India insisted on two basic pre-conditions: the forum would not discuss any bilateral and contentious issues; and that all decisions would be reached through consensus.⁷ The former ensured that only issues that ‘united’ the grouping would be taken up and the latter, effectively gave every member of SAARC the negative power of a veto. These two organisational principles were to become the bane of SAARC both in terms of circumscribing its regional mandate and the negative use of veto to block forward movement on any item in the organisation’s charter should a member state feel that its interests were being impacted.

What works in SAARC?

SAARC today has a formal and well-defined structure with a Secretariat based in Kathmandu. It envisages cooperation in a wide variety of areas and SAARC Centres have been established for cooperation on many of these issues which are based in different member countries. These include Centres for Agriculture and Meteorology (both in Bangladesh); Forestry and SAARC Development Fund (both in Bhutan); Culture (Sri Lanka); Tuberculosis and HIV/AIDS, and Information (Nepal); Energy and Human Resource Development (both in Pakistan); Documentation and Disaster Zone Management (both in India); and Coastal Management (Maldives).

Many SAARC processes have continued to work well despite the fact that no Summit meeting has been held since 2014. Besides the SAARC Centres, the South Asian University in Delhi continues to receive students from the member countries with more than a thousand students having graduated from it. The SAARC Development Fund with its three funding windows – Economic, Infrastructure and Social – is functional though with different degrees of success. Similarly, despite the Summit meeting not having taken place, the SAARC expert level mechanisms are functional.

⁷ *ibid.*

There are six apex SAARC bodies in the areas of Commerce and Industry, Law, Accountancy, with the South Asia Foundation and the Foundation of Writers and Literature. Some networking is taking place through these bodies between businessmen, lawyers, academics and writers.

Despite the objective of regional economic integration to meet the common challenges of poverty alleviation and development, SAARC is not a very integrated region. Intra-regional trade accounts for only 5 per cent of South Asia's total trade. This compares poorly with 25 per cent for trade within ASEAN, 60 per cent within the European Union and 35 per cent within East Asia⁸, around 20 per cent in Latin America and 10 per cent in Sub-Saharan Africa.⁹ Intra-regional investment in SAARC is less than one per cent of the overall investment.

The initiatives to boost trade links within SAARC have not been very successful. The South Asian Preferential Trade Agreement (SAPTA) was signed in 1993 and followed by the South Asian Free Trade Area (SAFTA) in 2004. In 2006 the SAARC Agreement on Trade and Services (SATIS) came into being. However, none of these agreements have been very successful. Intra-regional trade in SAARC is just over one per cent of the combined GDP of the SAARC nations compared to 10 per cent of the combined GDP for ASEAN. The reasons for these agreements not functioning vary from factors such as tariff and non-tariff barriers, large lists of negative items, narrow trade baskets with little value addition, customs barriers, poor transport links, visa issues and limited private sector networking.¹⁰

SAARC has had some experience of working fruitfully with civil society organisations. It has apex bodies some of which work with civil

⁸ <http://www.worldbank.org/en/programs/south-asia-regional-integration>

⁹ Sibal, Kanwal, Regional Cooperation in South Asia – Past, Present and Future. Unpublished (Privately Communicated).

¹⁰ *ibid.*

society organisations and a category of “recognised bodies” engaged in the promotion of social, economic and cultural developments in the region which also include some civil society organisations.¹¹ Of the apex bodies recognized by SAARC, several expressly recognise the role of civil society organisations by giving them representation on the Board, as for example, the South Asian Initiative to End Violence Against Children. Its Governing Board membership rules specify that the board must have two representatives of civil society organisations on rotation and nominated through a selection process by civil society organisation’s working for children in SAARC.¹²

These also include civil society organisations such as South Asia Free Media Association (SAFMA), SAARC Women’s Association (SWA) in Sri Lanka, Hindukush Himalayan Grassroots Women’s Natural Resources Management (HIMAWANTI) in Nepal, South Asian Women Development Forum (SAWDF) in Nepal, and Self Employed Women Association (SEWA) in India. Despite human rights protection not being a part of its charter, SAARC has been working with issues of children’s rights under SAIEVAC and with recognized civil society organisations on women’s rights. Although SAFMA is recognized by SAARC it was funded by Norway and not any of the member countries of the organisation. Despite commending SAFMA’s work, the SAARC countries, they have not implemented the recommendation by SAFMA for free flow of information and easier or visa free travel journalists across the member countries.¹³

All the elaborate mechanisms, including for limited engagement on human rights with selected civil society organisations are in place but they do not always fulfill the objectives for which they were set up. And there is no political will to lend momentum to these mechanisms of cooperation. With there being no prospect of a SAARC Summit

¹¹ SAARC Recognised Bodies. <http://saarc-sec.org/saarc-recognized-bodies>.

¹² SAIEVAC Mechanism, <http://www.saievac.org/about-saievac/saievac-mechanism/>

¹³ SAARC and human rights: Looking back and ways forward, Forum Asia, http://www.forum-asia.org/uploads/books/SAARC_PR_body_final.pdf, p.41.

being held, a general impression has gathered ground that without the cosmetics of a Summit -- the leaders of all the member countries coming together on a common and public platform -- the spirit of SAARC is gone and its mandate has been hollowed out.

The centrality of India

India was central to the concept of SAARC because of its geographical size and its large economy. Even today some observers of SAARC refer to what they call the “N-1 thesis” – that suggests that minus India SAARC ceases to exist. Yet instead of seeing the potential dominance of India within SAARC in a negative light, they suggest that this is what persuaded India to finally accept SAARC because it made Delhi realise that the well-being of other countries was vital to its interest if it wanted to rise as a regional and global power.

Before the formation of SAARC, India had a policy towards its individual neighbours but not a “neighbourhood policy”. While the former allowed it to deal with its neighbours individually, the latter forces it to situate its relationships in a larger context.

Although Prime Minister Rajiv Gandhi was positive about SAARC, the best period for South Asian cooperation, from the Indian point of view, was under Prime Ministers I K Gujral and Atal Bihari Vajpayee. Under the former, South Asian cooperation was guided by the so-called “Gujral Doctrine” which underlined accommodation and trust the basis of India’s relationship with its neighbours without seeking reciprocity; not allowing the territory of one neighbor against the interests of any other; non-interference in the domestic affairs of others; respecting the sovereignty and territorial integrity of others; and settling all disputes through peaceful bilateral negotiations.¹⁴

¹⁴ Aspects of India’s Foreign Policy, Speech by I.K. Gujral at the Bandaranaike Center For International Studies in Colombo, Sri Lanka. January 20, 1997. <https://www.stimson.org/the-gujral-doctrine>

The market liberalisation in India which started in 1991, created the context for a more outward looking policy. This resulted in a change in India's attitude to SAARC. By the time Prime Minister Vajpayee took over in 1998, India had become much more confident about regional economic integration. It started championing regional cooperation instead of giving the impression of being dragged into it – Vajpayee talked of a SAARC Economic Union¹⁵ and even the tantalising prospect of a common currency.¹⁶ India instead of being seen as a retarding force in SAARC had become its champion.

This trend continued during the tenure of Vajpayee's successor, Prime Minister Manmohan Singh.

The first set of SAARC declarations focused on social issues and natural calamities. They were non-controversial. Economic issues were taken up later. The basic principle underwriting economic cooperation was that regional cooperation would not be selective – a member country could not deny something to one while offering it to another member country.

However, from the Indian point of view this soon became difficult as India had more to give and less to take from the SAARC countries. It resisted preferential trading agreements like SAPTA (South Asian Preferential Trade Agreement), which would make India bring down tariffs. Its rationale for doing so was that countries like Nepal, Bangladesh, Sri Lanka, Maldives and Bhutan did not produce what India needed and some of them were pushing cheap imports from abroad such as vegetable oil (Nepal) and auto-parts (Sri Lanka) from other countries into India. Since SAPTA did not work efficiently and

¹⁵ Shyam Saran; Opening Address by Chairman RIS; Towards South Asia Economic Union: Proceedings of the 7th South Asia Economic Summit; Research and Information Systems for Developing Countries, New Delhi. November 5-7, 2011. <https://ris.org.in/pdf/Towards%20South%20Asia%20Economic%20Union.pdf>

¹⁶ Haribansh Jha; Introducing common currency in South Asia; Vivekananda International Foundation. June 30, 2017. <https://www.vifindia.org/article/2017/june/30/introducing-common-currency-in-south-asia>

to everyone's advantage, it was replaced by SAFTA (South Asian Free Trade Agreement). However, this had its own problems as SAFTA included trade in "goods" but excluded "services" and the smaller countries were flooded with Indian exports.

The important inference from these ongoing experiments in economic cooperation within SAARC is that it remained significantly asymmetrical. It led several member states to think in terms of negotiating bilateral deals with India.

Dysfunctional SAARC: Bilateral tensions torpedo regionalism

SAARC has become dysfunctional for a variety of reasons. Although South Asian countries are united by geography and a shared history and culture, their domestic politics and regional aspirations are very different from each other. While they claim to seek regional cooperation, the non-convergence of their political interests prevents them from fully cooperating with each other. Further the sheer geographical and economic size of India intimidates almost all the smaller nations in SAARC.

While consensus in decision making at the apex level equalizes the weight of each member country by giving it a veto over all decisions, it does not overcome the other fault-lines in the grouping.

The veto inherent in the consensus can be used to deny regional connectivity essential for trade as Pakistan has done by denying India overland route for trade with Afghanistan. The veto can also be used to stall the meeting of the apex body of the association, the biennial summit, as India has done.

The SAARC summit which is a meeting of the heads of governments of the member countries has not been held since the last summit in Kathmandu in 2014. These summits are supposed to be held biennially

and hosted by the member states in alphabetic order. The heads of SAARC governments constitute the SAARC Council or the apex decision making body. The SAARC Summit gives the direction to the grouping and is assisted by a Council of Foreign Ministers.

The 2016 SAARC Summit was to be held in Islamabad. However, after a terrorist attack on an Indian army camp in Uri in the state of Jammu and Kashmir, allegedly executed by terrorists trained in Pakistan, India expressed its inability to attend the summit. The summit was called off after Bangladesh, Bhutan and Afghanistan also declined to attend.¹⁷

This in essence is the problem of SAARC – bilateral tensions, although consciously excluded from the mandate of the association, tend to torpedo multilateral cooperation.

The formation of SAARC took place in the context of the formation of the European Community and ASEAN. Many experts believe that merely following in their wake without taking the ground realities of South Asia into consideration has led to the present denouement of SAARC. The two warring states of India and Pakistan have not been able to reconcile their differences and SAARC is in no position to help them.

Explaining some of the reasons why SAARC does not work, Prof. Lokraj Baral says, “The history of partition of India still impinges on the actions of India and Pakistan. It has been historically difficult to minimise the India-Pakistan conflict as well as other regional conflicts. Democracy and democratic governments have been fragile with some nations alternating between periods of military rule and civilian governments backed by the military. Of late some have witnessed a

¹⁷ Not possible to go ahead with SAARC under present circumstances: India. <https://economictimes.indiatimes.com/news/defence/not-possible-to-go-ahead-with-saarc-under-present-circumstances-india/articleshow/63659156.cms?from=mdr>

growth of religious fundamentalism, which threatens not only them but also the other member states of SAARC.”¹⁸

In the context of the India-Pakistan conflict, Prof. Baral argues, “Even if Kashmir is resolved, SAARC will not become viable because it will not change Pakistan’s mindset. While the other conflicts between India and its neighbours can be resolved, the India-Pakistan rivalry will not go away. They are competitive powers,”¹⁹

Kanwal Sibal, former foreign secretary of India, felt SAARC had not caught the imagination of the people in South Asia. “In the initial years, it might have been looked upon as a desirable instrument to bring South Asia together. In the recent years, however, there is no enthusiasm left for SAARC. This is most powerfully demonstrated in the SAARC Summit not being held since 2016. It is not only because of India’s resistance but also because of others – these are not nations that always follow and tag along with India. If India does not attend, SAARC means nothing.”²⁰

Madhuraman Acharya, former foreign secretary of Nepal said, “South Asia is adjusting to the impression that SAARC is not the organisation we were aspiring for. Without SAARC Summit everything seems in suspended animation. We could have kept other things rolling. After all SAARC has a charter and that is not contingent upon holding summit meetings.” He felt that if the sponsorship of terrorism by a member state was an issue there were ways to address it within SAARC. “Call a meeting of SAARC foreign ministers or National Security Advisors on regional security and terrorism and then grill Pakistan there,” he suggested.²¹

¹⁸ Interview with Prof. Lokraj Baral, Kathmandu, March 26, 2019.

¹⁹ *ibid.*

²⁰ Interview with Kanwal Sibal, Former Foreign Secretary of India, New Delhi, March 11, 2019.

²¹ Interview with Madhuraman Acharya, Former Foreign Secretary of Nepal, Kathmandu, March 26, 2019.

While India-Pakistan tensions have made SAARC made dysfunctional, it has encouraged the use of other mechanisms for sub-regional cooperation to get around the hurdle of Indo-Pak tensions and make cooperation more efficient for individual countries.

Because Pakistan refuses regional connectivity to India, India has signed a sub-SAARC Motor Vehicle Agreement with Bhutan, Bangladesh and Nepal (BBIN). BBIN, as the sub-regional group is called, could possibly in the future exist formally within SAARC while excluding Pakistan. Of course, the exclusion of island states of Sri Lanka and Maldives from a land transport agreement was logically consistent.

India is also promoting BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) as an alternative to SAARC. Unlike BBIN, BIMSTEC contains both SAARC (Bangladesh, Bhutan, India, Nepal, and Sri Lanka) and non-SAARC countries (Myanmar and Thailand). It is measure of the importance that India attaches to BIMSTEC that its member states were invited to attend the BRICS (Brazil, Russia, India, China, South Africa) summit held in India²² and also held the first BIMSTEC military exercises.²³

Issue-based sub-regional cooperation could proceed in other ways as well. India, Nepal, Bhutan and Bangladesh could explore collaboration on water resources and it made perfect sense not to have Pakistan, Maldives and Sri Lanka in that framework. Sub-regional cooperation is also being explored in soft areas – such the cooperative tracking of the movement of rhinoceros and elephants; cooperation between states of India that share borders with a neighbouring country – e.g. between the Indian states of West Bengal and Assam with Nepal, Bhutan and

²² India invites six Bimstec countries to BRICS Summit, Business Standard. https://www.business-standard.com/article/news-ians/india-invites-six-bimstec-countries-to-brics-summit-116092801190_1.html

²³ First ever BIMSTEC military exercise begins near Pune. The Economic Times. <https://economictimes.indiatimes.com/news/defence/first-ever-bimstec-military-exercise-begins-near-pune/articleshow/65757101.cms?from=mdr>

Bangladesh; the Indian states of Uttar Pradesh and Bihar with Nepal and even cooperation between the Indian states of Tamil Nadu and Kerala with Sri Lanka and the Maldives. A former SAARC official commented, “There is a lot of support for sub-regional cooperation but it seems aimed only to isolate Pakistan”.²⁴

It is evident that there has been progress on issue-based sub-regional cooperation. For physical connectivity there has been a Motor Vehicle Agreement for BBIN²⁵ though it was stymied at the SAARC level by Pakistan. Proposals on a railway agreement, a regional virtual power grid agreement and a sub-regional market for electricity are also proceeding apace. Indian impatience with SAARC was exemplified by its response to the earthquake in Nepal in 2015.

“India reacted unilaterally rather than invoking a SAARC disaster relief mechanism. It was a clear demonstration by New Delhi that it could do things more effectively and efficiently bilaterally than through SAARC. There are a lot of misleading impressions about SAARC and its capabilities. One such example is the SAARC Food Reserve. It exists only on paper. There is no food and there is no reserve, it only consists of theoretical commitments. So, when an emergency like the 2015 Nepal earthquake arose, India was able to react immediately. That, once again demonstrated India’s capabilities rather than the ability of SAARC to deal with such contingencies,” pointed out a retired diplomat.²⁶

²⁴ Interview with a retired SAARC official, New Delhi. April 17, 2019.

²⁵ The Motor Vehicle Agreement was signed in Thimpu, Bhutan on June 15, 2015. It has been approved by the respective parliaments of India, Nepal and Bangladesh. See, <https://www.thehindubusinessline.com/economy/logistics/bbin-motor-vehicles-agreement-implemented/article7829675.ece> ; The lower house of Bhutanese Parliament approved it but it was rejected by the Upper House. Bhutan now wants a cap put on the number of vehicles entering its territory. See, <https://www.hindustantimes.com/india-news/bhutan-blocks-india-s-ambitious-sub-regional-road-connectivity-plan/story-xyRIYcCvpyFg8czANisIJ.html>

²⁶ *Op.cit.* Interview with a retired SAARC official.

Could these mechanisms replace SAARC in the near future? What are the disadvantages of BIMSTEC as it wades into the areas of security and military cooperation which some of its members seem to resent? Can BBIN and the Indian Ocean Rim Association complement SAARC instead of becoming focused on one or two countries? These are questions to which there are no easy answers.

SAARC and human rights organisations

SAARC has been ineffective in promoting and protecting human rights primarily because it neither has a shared position on human rights nor a human rights charter. Nothing can happen in SAARC unless all its members agree and none of the members are keen on a human rights charter.

However, SAARC has a Social Charter that covers various dimensions of human rights. All or most of the SAARC countries have also signed international agreements like the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR)²⁷, Convention on the Rights of the Child (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). There are common mechanisms under each. However, SAARC remains the only regional grouping with no regional human rights mechanism of its own.²⁸

There have been campaigns in the past for adopting a human rights mechanism for South Asia along the lines of other regional groupings such as AU (African Union), ASEAN (Association of South East Asian Nations), EU (European Union), the Organization of American States

²⁷ Bhutan has either not signed or not ratified this convention.

²⁸ SAARC is world's only regional organization not having human rights body to tackle issues related to International Covenants; Counterview.org; August 26, 2014. <https://counterview.org/2014/08/26/saarc-is-worlds-only-regional-organization-not-having-human-rights-body-to-tackle-issues-related-to-the-international-covenants/>

(OAS), the Caribbean Community (CARICOM) and the League of Arab States.²⁹

South Asians for Human Rights (SAHR) has been striving to promote regional solidarity based on human rights principles – people-centred and people-oriented in South Asia. SAHR together with other civil society groups organised the People’s SAARC which is held parallel to the SAARC Summit.³⁰ In 2016, a SAHR delegation met with the SAARC Secretary General to discuss the establishment of a South Asian human rights mechanism as well as including civil society organisations human rights concerns in the main SAARC agenda.³¹ Ms. Hina Jilani and Dr. Nimalka Fernando the then Chairperson and Co-Chairperson respectively of the South Asians for Human Rights (SAHR) played an important leadership role in advancing the debate regarding the establishment of a South Asian Human Rights Mechanism.

Among other initiatives, mention should be made of Forum Asia’s two workshops³² on a South Asian Human Rights Mechanism held in Kathmandu in 2010 and 2011. The first workshop called for the establishment of “an independent, effective and accountable regional human rights mechanism with an explicit mandate of promoting, protecting, and fulfilling human rights, through a process of wide consultation with non-governmental organisations, peoples’ movements

²⁹ *ibid.*

³⁰ People’s SAARC has evolved as a process based political platform or space for South Asian people to come together and coordinate among themselves to voice their concerns, consolidate and strengthen their work and networks as well as take forward an institutional engagement with the SAARC and its members. While People’s SAARC does relate and respond to the SAARC agenda, it also goes beyond them to envision a South Asian-ness that resonates with the necessities and priorities of the people of South Asia. <https://www.europe-solidaire.org/spip.php?article33143>

³¹ SAHR communiqué to the SAARC Secretary General, February 2016, <http://www.southasianrights.org/?p=9501>

³² Forum – Asia, 2017. Understanding Regional Human Rights Mechanisms & the Need for a South Asian Human Rights Mechanism, https://www.forum-asia.org/uploads/wp/2017/04/RISAHRM_Final-Book.pdf

at national and regional level.”³³ The second sub-regional workshop adopted the Kathmandu statement 2011 which reiterated the need for a regional human rights mechanism to complement the work of existing human rights institutions in SAARC member states.³⁴

There have also been other attempts by civil society organisations to set up a South Asian Human Rights Charter. “We, at South Asian Forum for Human Rights (SAFHR), tried to work with the EU and the UN on this issue. We lobbied with various governments in South Asia. While Nepal was willing, it said that unless India agrees, nothing will happen. Sri Lanka was also interested in the charter but then nothing came of it,” recalled Tapan Bose, Secretary General of SAFHR.³⁵

Bose said that SAFHR had suggested that SAARC could adopt a human rights charter which harmonises the civil and criminal laws of the member countries; recognises the rights of people; facilitates the movement of people across the member countries (ICCPR allows it) and addresses the problem of refugees and statelessness. “But the problem is with India, as the government of India did not even want to listen to these suggestions. The (then dominant) Congress party was not interested although the Left parties in India showed some interest. On the issue of refugees, however, some leaders were individually amenable to a charter,” he recalled.³⁶

The basic hurdle to adopting a human rights charter lies with the two founding principles of SAARC – internal non-interference and exclusion of contentious issues. Given these foundational principles of the SAARC Charter, the member countries would find it difficult to

³³ Kathmandu Declaration, 2010 – Outcome Document of the First Sub-Regional Workshop on a South Asian Human Rights Mechanism held in Kathmandu, Nepal on 24-25 March 2010. <http://forum-asia.org/documents/SAHRM%20Workshop%20Proceedings-final.pdf>

³⁴ Kathmandu Statement 2011, Outcome Document of the Second Sub-Regional Workshop on a Human Rights Mechanism in South Asia, 25-26 July 2011, Kathmandu, Nepal, <https://www.forum-asia.org/?p=11725>

³⁵ Interview with Tapan Bose, New Delhi. March 18, 2019.

³⁶ *ibid.*

engage meaningfully with human rights as that could be interpreted as interfering in the internal affairs of a member state.³⁷

“Talk about human rights or peace, and India immediately thinks they are code words for Kashmir. So any discussion on Kashmir is banned. Bowing to sensibilities of some others even the Rohingya issue cannot be discussed,” said Madhuraman Acharya, former Foreign Secretary of Nepal.³⁸

Some civil society activists believe that the refusal of SAARC to engage with a human rights charter has to do not only with the unfriendly attitude of the governments towards them in most South Asian countries, but also with human rights protection not being seen as an essential element of democratic governance by these governments. The ability of human rights organisations in these countries to influence their individual governments is also limited because organisations committed to human rights protection are discriminated against and vilified by the governments.

Leveraging SAARC on human rights

The general understanding across diplomats and social activists was that for SAARC to become a vehicle for civil society interaction and promoting democratic and human rights would require major changes both in the effectiveness and role of human rights organisations themselves.

The SAARC mandate also comes in the way of working with human rights organisations – the SAARC Secretariat cannot enter into partnerships with non-governmental organisations other than those registered with it. Talking about human rights and democracy is resisted by most members, especially India, because it is seen as interference in their domestic affairs. India particularly resists any talk of human

³⁷ *Op. cit.* Counterview.org; August 26, 2014.

³⁸ *Op. cit.* Interview with Madhuraman Acharya.

rights and peace because it thinks this is a reference to the Kashmir situation.³⁹

SAARC had made some strong moves on media and journalism, collaboration on prevention of trafficking in women and children, collaboration among writers and activists, “but this is not the core of the relationship,” argues a former SAARC official. “Is a SAARC film festival going to move and shake things in the region? I don’t think so, If the governments do not collaborate, do not give visas, ban films and TV channels broadcasting from neighbouring countries, then what can civil society do?” he asks rhetorically.⁴⁰

Cooperation on the protection of the rights of women and children

SAARC officials feel that there are three clear areas where human rights organisations can work with SAARC to sharpen its agenda and make it more effective. These are: protecting the rights of women, rights of children and the right to health. “Human rights are not a part of the SAARC charter but we do work with organisations promoting women’s and children’s rights. SAARC representatives are often invited by these organisations to participate in their activities. Of course, SAARC cannot pay for these activities including the cost of participation of its officials,” a SAARC official who did not want to be identified pointed out.⁴¹

The SAARC Secretariat does not initiate any projects with NGOs but it does work with recognised civil society organisations. Thus for example, the South Asian Initiative to End Violence against Children (SAIEVAC), which is not funded by governments, still brings together representatives from the eight member countries of SAARC and civil society organisations. The SAARC Secretariat also works with South

³⁹ *Op.cit.* Interview with Madhuraman Acharya.

⁴⁰ *Op.cit.* Interview with Amit Dasgupta.

⁴¹ Interview with SAARC Official 1, Kathmandu, March 26, 2019.

Asian women's NGOs by attending their meetings and workshops to provide the perspective of the regional organisation.

Influencing individual governments and SAARC Mechanisms

For human rights organisations to mobilise support for leveraging SAARC would require a major change in the relationship between them and government authorities. This is unlikely to happen in the near future because in South Asian countries, civil society organisations are unable to exert much pressure on the State. Yet some diplomats felt that the prospect of this happening were brighter in Sri Lanka and Bangladesh than in the other countries while such a relationship was difficult to conceive of in Nepal, Pakistan or Bhutan.⁴²

SAARC officials also believe that while the influence of human rights organisations on the governments of the countries varies across the region, there is scope for expanding cooperation between them and their respective states. They can put pressure on their governments on rights issues and persuade them to take them up with SAARC, felt an official. "Human rights organisations in smaller countries like Maldives, for example, have had to be more creative and manoeuvre to influence governments and international agencies. They have often been able to work with both. In the bigger countries, however, this might prove to be more difficult."⁴³

At a time when SAARC is not able to lend momentum to regional cooperation, it is being suggested by some diplomats that civil society organisations can play a role in promoting cooperation in areas of common concern such as effects of climate change, poverty alleviation programmes in the region and women's empowerment.

⁴² Interview with former Indian Foreign Secretary Kanwal Sibal, New Delhi. March 11, 2019.

⁴³ *Op.cit.* Interview with SAARC Official 1.

“In all these areas the best practices can be shared across the region by civil society organisations. There is also a huge space for academics in the region to share their experiences of poverty alleviation and social change. However, SAARC mechanisms may find it difficult to get involved because they do not function independently of the member countries. While, officially SAARC may not be able to provide a platform for such exchanges, SACEP (South Asia Co-operative Environment Programme), SAFMA (South Asia Free Media Association) and South Asia Economic Summit can be used as platforms for cooperation. There may be regional bodies not led by SAARC or underpinned by SAARC mechanisms that can also be used,” argued former Indian foreign secretary Shyam Saran.⁴⁴

A SAARC official pointed out, “There is mechanism to deal with civil society organisations within SAARC. We can recognise different apex bodies (such a chambers of commerce) and professional organisations working across the region. At present there are 18 different organisations which have been recognised by SAARC. However, human rights organisations cannot be recognised under these mechanisms. The SAARC charter prohibits any discussion of contentious issues and human rights are contentious – anything that has a ‘human rights’ appellation to it is anathema to the member countries. The only way human rights organisations can influence SAARC is through the member countries.”⁴⁵

However, there was an interesting suggestion that human rights organisations could initiate a dialogue on issues of concern in SAARC technical committees by presenting papers. Such case studies could also be presented to their governments for them to take up at SAARC. “The will to do so has not been there in these organisations to explore these avenues,” a SAARC official claimed. “I think that human rights organisations have the ability to invest in SAARC and influence it. They can work with the apex bodies of SAARC and its recognised

⁴⁴ Interview with Shyam Saran, former Indian Foreign Secretary, New Delhi, April 2, 2019.

⁴⁵ Interview with SAARC Official 2, Kathmandu. March 26, 2019.

civil society organisations; hold discussions with them to influence them and then they in turn can influence SAARC,” the official added. Especially as SAARC is currently dysfunctional because of the lack of political will among its members, civil society organisations can revive activity within SAARC, “At a time like this there can still be progress in other areas and civil society organisations by virtue of their grass roots work can exert influence in these (non-controversial) areas,” said the official.⁴⁶

Kanwal Sibal, former foreign secretary of India, says that that civil society activism on human rights can also backfire. “Since India has a large number of NGOs and civil society organisations, one could say that it is in an advantageous position. However, if India or Indian civil society organisations take a lead (on issues related to other South Asian countries), it can back-fire. The same criticism that is levied against the US for using civil society organisations to interfere in the affairs of others can be used (against India and Indian civil society organisations).⁴⁷

For civil society to exert pressure on individual governments in SAARC would require a huge change in the relationship between them. Even if civil society organisations were willing to cooperate on regional issues, which they most often are, they cannot do so because of several factors beyond their control. These include lack of cooperation between their governments, lack of mobility in the region because of strict visa regimes and the refusal of the governments to listen to civil society organisations on matters of national security.⁴⁸

Revival of SAARC

While most diplomats and activists agreed that India and Pakistan remained the main hurdles to the revival of SAARC, former foreign

⁴⁶ *Op. cit.* Interview with a SAARC Official 1.

⁴⁷ Interview with Kanwal Sibal, New Delhi, *op.cit.*

⁴⁸ SAARC and human rights: Looking back and ways forward, *op. cit.* p.44.

secretary of India, Shyam Saran argued, “There is no doubt in my mind that SAARC needs to be revived because we do not have any other similar mechanism for the entire subcontinent. It is also in India’s interest to revive SAARC. Any rational foreign policy for India would demand that it should be able to manage its neighbourhood in its interest. Without that India cannot play a larger international role. It will get pulled back to regional issues and conflicts, leaving it little time to address global issues. If India considers itself to be a regional or global power, it needs a reasonably settled and peaceful subcontinent. And we do not have that today.”⁴⁹

Former foreign secretary of Nepal Madhuraman Acharya also believes that SAARC needs to be revived with a sense of urgency. “If we have to wait for India and Pakistan to settle their differences, then we may have to wait forever. However, I feel that after the elections in India we could see some positive change. The broader point however is that regional cooperation cannot be left to the personalities and politics of individual ministers or heads of government. We still have to look at commonalities. Our positions are similar on poverty, environmental protection, disaster mitigation, climate change, etc.”

Acharya said that if India wanted to isolate Pakistan, it should do so on its own and “not at the cost of its neighbours and by checking their cooperation with Pakistan.” Additionally, he said, “India has to decide what to do with China. It borders five South Asian countries and if we cannot deal with China collectively, we will be forced to do so individually. China’s Belt and Road Initiative (BRI) is a unilateral process and agreements with the countries in the region are being signed on China’s terms. Individual countries in South Asia are signing on to the BRI and this isolates India. If India does not bring its neighbours together, it stands in danger of being marginalised further.”

⁴⁹ *Op.cit.* Interview with Shyam Saran.

SAHR is a democratic regional network with a large membership base of people committed to addressing human rights issues at both national and regional levels. SAHR seeks to contribute to the realisation of South Asian peoples' right to participatory democracy, good governance and justice by strengthening regional response, including regional instruments, monitoring human rights violations, reviewing laws, policies and practices that have an adverse impact on human rights and conducting campaigns and programmes on issues of major concern in the region.

SAHR comprises both institutional and individual members. An elected bureau works as the organisation's executive body while the membership committee oversees enrolment of members. The SAHR Chairperson and Co-Chairperson are Ms Sultana Kamal of Bangladesh and Mr. Mohamed Latheef of the Maldives respectively. The Secretariat is located in Colombo, Sri Lanka.



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