



SAARC Democracy Charter

Citizens' Initiative

This is the Final Version of the Charter prepared by the *Regional Conference on SAARC Democracy Charter: Citizens' Initiative*, held in Kathmandu on 20th-21st September 2011. A Working Draft was initially prepared by the *Brainstorming Meeting* held in Kathmandu on 24th-25th November 2010. SACEPS is grateful to the International-IDEA for its generous support in this endeavour.

As of 14th October 2011

South Asia Centre for Policy Studies (SACEPS)

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SAARC Democracy Charter: *Citizens' Initiative*
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PREAMBLE

WE, THE PEOPLES OF SOUTH ASIA,

Inspired by our common goals to promote the welfare of the people, provide all individuals of diverse identities with the opportunity to live in liberty, dignity, peace and happiness and to realise their full potential as enshrined in the SAARC Charter;

Also inspired by the aspiration of the peoples of South Asia to promote freedom and social justice;

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

Reaffirming our collective will to ensure the fulfilment of fundamental human rights, by institutionalising the rule of law, peace, security and equitable and sustainable development as enunciated in the Universal Declaration of Human Rights and the respective Constitutions of the SAARC Member States;

Recognising that inclusive policies are essential for developing trust, dialogue and understanding between and among communities;

Acknowledging that broad based participation of people in governance and democratisation within political parties creates ownership and stability;

Bearing also in mind the principles of proper management of public affairs and public property, fairness, responsibility and need to safeguard integrity and to foster a culture of rejection of corruption.

Noting the inherent linkage between democracy and development, and that poverty eradication, affirmative action, good governance and the pursuit of inclusive and sustainable development can best support the process of democratisation;

Aware that recognition and respect for diversity are critical in creating effective foundations for a sustainable democracy in intra and inter-state context and relationship;

Conscious that undemocratic, unrepresentative, unelected as well as elected authoritarian and unaccountable and unresponsive governments weaken national institutions, undermine constitutional governance and the rule of law and threaten social cohesion and stability;

Cognizant of the fact *that* further that gender inequality, exclusion and violence against women hinders development and women's participation and representation in decision making, and addressing the issues of indigenous people and marginalized including women in peace process contributes to sustainable peace; and

Recognising the urgency of taking effective measures to counter religious, ethnic and any other form of extremism;

RESOLVE TO ADOPT THIS DEMOCRACY CHARTER.

HAVE AGREED

I

DEFINITIONS

Article- 1

In this Charter, unless otherwise stated, the subject or context otherwise requires, the expressions below shall have the following meaning:

1. "SAARC" means the South Asian Association for Regional Cooperation;
2. "Charter" means the SAARC Democracy Charter: Citizens' Initiative;
3. "National electoral body" means a competent authority, established by the relevant legal instruments of a Member State, responsible for organizing and supervising elections;
4. "Member State" means any of the eight members of SAARC and does not include a country with observer status.
5. "SAARC Charter" means the charter establishing the South Asian Association for Regional Cooperation (SAARC) done on 8th December 1985.

II

OBJECTIVES

Article- 2

In order to establish, consolidate, deepen and strengthen democracy in South Asia, the objectives of this Charter are to:

1. Promote adherence, by each Member State, to the universal values and principles of democracy based on the sovereignty of the people and respect for human rights at the local, national and regional levels;
2. Uphold and enhance adherence to the rule of law premised upon the supremacy of the Constitution, independence and efficacy of the judiciary and equal access to justice;
3. Advance the principles of social justice;
4. Ensure the holding of regular, free and fair elections under the auspices of independent national electoral bodies;
5. Renounce unequivocally any change in government other than through constitutionally mandated democratic means;

6. Nurture, support and consolidate good governance by promoting democratic norms, conventions, culture and practice;
7. Build and strengthen governance institutions by ensuring transparency and accountability;
8. Inculcate a culture of political pluralism and respect for diversity;
9. Intensify the fight against corruption and the abuse of authority;
10. Agree to ban sex determination tests and criminalize female infanticide or foeticide;
11. Promote and protect the rights of all minorities, including indigenous people and marginalized communities.
12. Advance and protect the rights of migrants, displaced persons, refugees, women, children, people with disabilities and elderly persons;
13. Ensure gender equality and ensure the active and effective participation of women in the governance and development processes as enshrined in the SAARC Social Charter adopted on 6th January 2004.
14. Encourage effective coordination and harmonization of governance policies amongst Member States with the aim of promoting regional integration;
15. Promote equitable and sustainable socio-economic development and human security in conformity with the provisions of the SAARC Social Charter;
16. Foster peoples' participation through transparency, access to information, freedom of the press and accountability in the management of public affairs and public institutions to strengthen good governance.

III

DUTIES AND OBLIGATIONS OF THE MEMBER STATES

Article- 3

Member States shall implement this Charter in accordance with the following precepts, whereby the Member States shall:

1. Exercise, and inculcate in state institutions, respect for human rights, equality, social justice, peace, tolerance and democratic principles;
2. Ensure that access to state power and its exercise are in accordance with the constitutions of the Member States;
3. Ensure empowerment of people, especially of women, disadvantaged and marginalized communities at all levels in the State's decision-making process;

4. Hold regular, transparent, free and fair elections on the basis of universal adult franchise;
5. Ensure that all organs of the state operate within the limits stipulated by the constitution, respecting the principle of separation of powers, and that no organ of the state shall act with impunity or enjoy immunity from due process of law;
6. Guarantee the independence of constitutional bodies by setting up appropriate and effective-mechanisms for their establishment and operation;
7. Promote gender equality in public and private spheres and ensure that women's representation in elected bodies reflects their share in the population;
8. Institutionalize transparency, accountability and fairness in the management of public affairs and institutions;
9. Support reforms within political parties through the establishment of a party constitution that promotes respect for the aspirations of the people, internal democracy, public accountability and financial transparency;
10. Strengthen a non-violent competitive party system and recognize the role, rights and responsibilities of legally constituted political parties, including opposition political parties;

Article-4

Member States shall commit themselves to establish a constitutional democracy, the rule of law, and appropriate criminal justice system based on core human rights values.

Article-5

Member States shall ensure that citizens enjoy fundamental freedoms and human rights, including the right to life, liberty, livelihood, health, education, employment, information, movement and association; the right to protest and dissent, taking into cognizance the universality, interdependence and indivisibility of such rights.

Article-6

Member States shall undertake to design and implement social, economic and cultural policies and programmes that promote equitable and sustainable development with environmental and human security.

Article-7

Member States shall embed the supremacy of the constitution in the socio-economic and political organization of the State.

Article-8

Member States shall protect the independence of the judiciary and ensure the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.

Article-9

Member States shall take all necessary measures to strengthen the instruments of SAARC that are mandated to promote and protect human rights, and to fight impunity, and provide these instruments with the necessary resources.

Article-10

Member States shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic caste, religious and racial grounds as well as any other form of discrimination.

Article-11

Member states shall take necessary action to protect women from violence in different forms in private and public domains.

Article-12

Member States shall recognise the right to information and ensure peoples' access to information with a view to strengthening the accountability and transparency in governance and public proceedings/affairs.

IV

NATIONAL LEVEL COMMITMENTS

Consistent with its principles and the spirit of democracy, the member states may take appropriate steps to put into effect the articles numbering 13 to 34 below.

Article-13

Member States shall undertake to develop appropriate legislative, judicial and policy frameworks to establish and strengthen a culture of democracy, peace and security in the region, bearing in mind that democracy is a way of life based on freedom of choice, liberty and enhancement of economic, social, and cultural opportunities for the peoples of South Asia.

Article-14

Member States shall undertake to implement programmes and carry out activities for civic education with special focus on rights, responsibilities and entitlements of citizens.

Article-15

Member States shall develop educational curricula to promote democratic and ethical values, liberty and social justice among children and youth.

Article-16

Member States shall adopt special measures to facilitate the expression of views and positions of all vulnerable and marginalized sections of society and give due weightage to these in policy formulation.

Article-17

Member States shall take necessary measures to effectively counter sectarian, communal and ethno-centric trends and activities that violate and undermine the democratic norms of pluralism and respect for diversity.

Article-18

Member States shall take all appropriate measures to ensure peaceful transfer of power according to constitutional provisions and democratic practices.

Article-19

Member States shall strengthen and institutionalize civilian control over the military and security forces according to the democratic principle of the supremacy of civilian authority.

Article-20

Member States shall ensure the independence and autonomy of constitutional bodies and integrity institutions. Appointments to these institutions should be done through a transparent and inclusive process. Adequate resources shall be provided by the state for the above mentioned institutions to perform their mandated tasks efficiently and effectively.

Article-21

Member States shall empower and strengthen state, provincial and local bodies by enacting appropriate laws and by providing adequate financial and human resources to execute their mandated functions.

Article-22

Member States shall commit themselves to regularly hold transparent, free and fair elections. To this end, Member States shall, in accordance with the fundamental principles of its legal system:

- a. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections;
- b. Set up and strengthen national mechanisms that redress election related disputes in a timely manner;
- c. Ensure fair and equitable access by contesting parties and candidates to state controlled and other privately owned media during elections;
- d. Formulate and enforce a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include, *inter alia*, a commitment by political stakeholders to accept the results of the election or challenge them only through legal channels and commit to supporting the peaceful post-election process.
- e. Ensure that the expenditure on elections remains within mandated norms so that money power does not unduly influence the outcome of the electoral process. The powers of the election commissions to curb and penalize illegal and excessive expenditures are greatly strengthened.
- f. Find ways and means to move towards state financing of elections.
- g. Ensure that elected representatives attend sessions of the representative bodies, in particular Parliament, and not boycott any sessions of such bodies, resulting in a failure to fulfil their obligations.
- h. Promote gender equality among the candidates and electoral administrators and put in place a gender responsive and inclusive electoral process.

Article-23

All electoral observer missions shall be conducted in an objective, impartial and transparent manner with the cooperation of the Member States.

Article-24

In order to advance political, economic and social governance, Member States shall commit themselves to:

- a. Strengthening the capacity of parliaments and legally recognised political parties to perform their core functions;
- b. Fostering popular participation and partnership with civil society organizations;
- c. Undertaking regular reforms of the legal and justice systems;
- d. Improving public sector management, with a view to ensure good governance and prevent corruption;
- e. Promoting a competitive private sector, covering small and medium enterprises and the informal sector through an enabling legal and regulatory environment.
- f. Developing and utilising information and communication technologies; and
- g. Promoting freedom of expression, in particular a free, independent and professional media.

Article-25

Member States shall implement policies and strategies to protect, conserve and improve the environment to achieve sustainable development for the benefit of the present and future generations. In this regard, Member States are encouraged to accede to the relevant treaties and other international legal instruments.

Article-26

An essential element for building a democratic society is the democratisation of educational opportunities so that all children should be given equitable opportunities for quality education. Member States shall ensure free and compulsory education to all, especially girls, rural inhabitants, minorities, people with disabilities and other marginalized social groups. In addition, Member States shall ensure the literacy of citizens above compulsory school age, particularly women, rural inhabitants, minorities, people with disabilities, and other marginalized social groups.

Article-27

Member States shall promote universal health-care and adopt cross-border policies that prevent and contain the spread of diseases.

Article-28

Member States shall take appropriate legislative and policy measures to empower the economically disempowered people by providing them with opportunities for ownership of productive assets, to participate on more equitable terms in markets, to enhance their human development and to secure access to a more democratised functioning of institutions of governance.

Article-29

Member States shall take appropriate legislative, policy and judicial measures to eliminate all forms of discrimination and exploitation of women, including trafficking, forced prostitution, abuse, violence, harassment and intimidation in both private and public spheres.

Article-30

Member States shall take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation, including trafficking, prostitution, abuse, violence, degrading treatment and child labour.

V

REGIONAL LEVEL COMMITMENTS

Article-31

Member States will consult and cooperate on an ongoing basis with each other and take into account the contributions of civil society organisations, whilst promoting transparency and accountability in such organisations.

Article-32

Member States shall take appropriate measures to increase awareness and understanding of the democratic process throughout the region.

Article-33

Member States shall take appropriate measures to promote the early realisation of a South Asian Union and establish a South Asian Parliament based on democratic principles.

Article-34

Member States agree that the use of, *inter alia*, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government and undertake to work towards the restoration of democracy in keeping with principles enshrined in the SAARC Charter:

- a. Any putsch, coup d'état or unconstitutional step against a democratically elected government;
- b. Any intervention by mercenaries to replace a democratically elected government;
- c. Any replacement of a democratically elected government by armed dissidents;
- d. Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections;
- e. Any amendment or revision of the constitution or legal instruments, which violate the "basic structure" of the constitution;
- f. Any efforts at promoting regime change through external interventions targeting a democratically elected government.

VI

MECHANISMS FOR MONITORING AND IMPLEMENTATION

Article-35

Member States shall take measures to promote mechanisms for fostering regional friendship at people's level, through a variety of means, including academic, sports and cultural exchanges and easing of visa and other travel procedures and arrangements.

Article-36

To give effect to the commitments contained in this Charter:

1. At the Individual State Level

- (i) Member States shall encouraged to develop benchmarks for implementation of the commitments and principles of this Charter;

- (ii) Member States shall consider developing mechanisms for evaluating compliance of these benchmarks by creating appropriate instruments through a transparent and broad-based participatory process;
- (iii) Member States shall, within a reasonable time after the adoption of the Charter, designate national focal points for coordination, evaluation and monitoring of the implementation of the commitments and principles enshrined in this Charter.

2. At the Regional Level

- (i) Member States shall take appropriate measures to empower the SAARC Secretariat to act as the central coordinating mechanism for the implementation of this Charter.
- (ii) Member States and civil society shall take measures at the regional level to share information on the implementation of the Charter.

VII

FINAL PROVISIONS

Article-37

The SAARC Democracy Charter may be amended through agreement among all Member States.

Article-38

Member States shall, having considered the results achieved by them, undertake a review of the Charter every three years.

Article-39

The SAARC Democracy Charter shall come into force upon the signature thereof by all Member States.

Article-40

The SAARC Secretariat is designated as a depository of this Charter.