

**SAARC CONVENTION ON REGIONAL ARRANGEMENTS FOR
THE PROMOTION OF CHILD WELFARE IN SOUTH ASIA**

**Adopted and Signed on 5th January 2002 and came into force on 15th
November 2005**

PREAMBLE

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

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

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

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

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

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

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

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

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

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

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

HEREBY AGREE as follows:

PART I - DEFINITIONS, PURPOSE AND GUIDING PRINCIPLES

Article I

Definitions

For the purposes of this Convention:

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

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

Article II

Purposes and Objectives

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

1. Unite the States Parties in their determination of redeeming the promises made by them to the South Asian Child at the World Summit for Children and at various other national and international conferences and successive SAARC Summits;

2. Work together with commitment and diligence, to facilitate and help in the development and protection of the full potential of the South Asian child, with understanding of the rights, duties and responsibilities as well as that of others;
3. Set up appropriate regional arrangements to assist the Member States in facilitating, fulfilling and protecting the rights of the Child, taking into account the changing needs of the child.

Article III

Guiding Principles

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

1. States Parties to this Convention shall consider survival, protection, development and participatory rights of the child as a vital pre-requisite for:
 - a) Accelerating the process of their peoples' realisation of human rights and fundamental freedoms; and
 - b) Achieving economic and social development in South Asia.
2. States Parties shall reaffirm the right of the child to enjoy all rights and freedoms guaranteed by the national laws and regionally and internationally binding instruments.
3. States Parties consider the UN Convention on the Rights of the Child as a comprehensive international instrument concerning the rights and well-being of the child and shall, therefore, reiterate their commitment to implement it.
4. States Parties shall uphold 'the best interests of the child' as a principle of paramount importance and shall adhere to the said principle in all actions concerning children.
5. States Parties, while recognizing that the primary responsibility of looking after the well-being of the child rests with the parents and family, shall uphold the principle that the State has the right and authority to ensure the protection of the best interests of the child.
6. States Parties shall consider this Convention as a guiding force for all national laws and bilateral or multilateral agreements that are entered into in the field of child welfare.
7. States Parties shall always consider gender justice and equality as key aspirations for children, the realization of which, collectively by the governments, would enhance the progress of South Asia.

PART II - REGIONAL PRIORITIES AND ARRANGEMENTS

Article IV

Regional Priorities

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

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

Article V

Regional Arrangements

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

- a) provide opportunities for appropriate bilateral and multilateral sharing of information, experience and expertise;
- b) facilitate human resource development through planned annual schedule of SAARC Advanced Training Programmes on Child Rights and Development;
- c) make special arrangements for speedy completion and disposal, on priority basis, of any judicial or administrative inquiry or proceeding involving a child who is a

national of another SAARC Member State, and for the transfer of children who are nationals of SAARC countries, accused of infringing the penal code, back to their country of legal residence for trial and treatment, provided that the alleged offence has not imperiled the national security of the country where it has been allegedly committed;

- d) strengthen the relevant SAARC Bodies dealing with issues of child welfare to formulate and implement regional strategies and measures for prevention of inter-country abuse and exploitation of the child, including the trafficking of children for sexual, economic and other purposes;
- e) set up a South Asian nutrition initiative aimed at enhancing knowledge and promoting greater awareness, practice and attainment of higher levels of nutrition, particularly for children and women, through mass education, adequate training and ensuring food security and equitable distribution of food at the family level.

PART III - RELATIONSHIPS AND COOPERATION

Article VI

Bilateral and Multilateral Cooperation

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

Article VII

Relations with National Law and International Instruments

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

Article VIII

Relations with Non-Governmental Bodies

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

Article IX

Cooperation with UN Agencies and Other International Agencies

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

Article X

Political Commitment

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

PART IV

Article XI

Signature and Ratification

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

Article XII

Entry into Force

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

Article XIII

Depository

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

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

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

Nepal Law Commission