

**VI. SUMMARY RECORDS OF THE FIRST GENERAL
MEETING**

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HELD ON MONDAY, 21ST JUNE 2004 AT 4:30 PM**

The President His Excellency Prof. Dr. Yusril Ihza Mahendra, in the chair.

1. The **Leader of Delegation of Kingdom of Saudi Arabia** in his address firstly congratulated the President on his election. He said that he would like to present a case on Human Rights in Islam which was repeatedly mentioned in most meetings of legal thought and stated that it would be different from the familiar presentations of other meetings and conferences. He said that the Kingdom of Saudi Arabia represented a distinguished model in reflecting, dealing and maintaining human rights based on a firm concept represented by the divine principle in manifesting and protecting such rights. Human rights were a part and parcel of the Islamic religion and Muslim beliefs. Human rights in Islam were not an offer (concession) from Governor (ruler) or any legislative body. It was not a decree or convention by an international organization or local or regional authority. It was a part of Islam and its belief system and not valid for deletion, replacement or being kept dormant and relegated. Most of the international organizations either connected to United Nations or any other organizations that were concerned with human rights could not understand the true dimension of this aspect. These laws were not man made or legislated by States but were verily divine laws, ordained by the Lord of the Universe.

2. The criteria in human rights in Islam was based on the divine origination of the initiator and the fact that it was compulsory to abide by the laws (tenets) of the religion, as they were part and parcel of it, and no ruler (governor) or authority was expected to tamper with them or attempt to change or impede them. The Kingdom of Saudi Arabia hoped that the distinguished participants of this meeting would come up with views which would address the issue and propose appropriate solutions to convincingly clarify the justifications for others which could not comprehend this firm position from Saudi Arabia.

3. While clarifying the punishment of arms amputation for theft and burglary he claimed that this rule was not a law legislated by an individual or a ruler (governor), but it was a rule ordained by the creator in the Holy *Quran* as revealed by the God. All Muslims from the rise of Islam to date have agreed to execute this rule without ever having any objection to its righteousness and flawlessness. He underlined the safety of wealth in countries where such divine rules were implemented when compared with those countries where such rules were not implemented. This kind of punishment for the theft was the best remedy ever in combating theft as the facts reflected in Saudi Arabia where a very limited number of people were affected by this legislation and commercial outfits were safe and untouched even in the absence of owners. The intention behind this punishment was not cruel as the doctrine was based on mercy as the messenger of Allah was sent by Allah as a mercy for mankind as clearly revealed in the *Quran* by Almighty Allah. Fundamentally accepted beliefs and common sense which were usually subject to acceptance, conviction and taken for granted, do vary from amongst the nations of the East, West, North and South as they all felt satisfied with what was based on their

common legal heritage or a deep rooted tradition. However, he said that the situation in the case of Saudi Arabia was different as their conviction and beliefs in the issue of human rights was a part and parcel of their religion and faith and not a norm or tradition subject to review or debate. He sought the advocates of human rights to understand this position. He expressed the hope that his presentation would have a fair consideration and understanding by the participants of the session and would go a long way in convincing others and sought that the issue of human rights in Africa and Asia would be included in the agenda of the next session of the AALCO.

4. The **Leader of Delegation of Malaysia** congratulated the President of the Forty-Third Session of AALCO and reposed his faith in his able leadership. He expressed his sincere gratitude to the Government of Indonesia for the invitation extended for the participation in the Forty-Third Annual Session of AALCO and for the warm welcome and hospitality shown to all delegates, including his delegation. He also congratulated the Secretariat for the well organized preparation, including the early dissemination of documents for discussion.

5. The Leader of Delegation assured that his delegation would put its best efforts to fully and constructively participate in the deliberations. He also reaffirmed Malaysia's commitment to the international co-operation on legal issues within the ambit of the AALCO.

6. Views of Malaysia with regard to International Criminal Court (ICC) were made clear by the Leader of the Delegation. Malaysia viewed its establishment as a positive step towards promoting world order and peace. ICC with its wider jurisdiction and application might or had other necessary implications to the legal system and laws of certain countries. Malaysia eagerly awaited the first case to be brought to the ICC. Only then would the system be tried and tested and shortcomings, if any, identified and rectified. Malaysia was still in the process of studying in detail the provisions of the Rome Statute and the mode and implication of implementing those provisions before deciding on a future course of action. Malaysia firmly believed that it would be prudent practice for them to be comprehensive, thorough and certain in their evaluation of the Rome Statute before giving any firm commitment with regard to accession. Further and fuller understanding of the workings of the Court and especially after witnessing how the court functions, Malaysia's concern would accordingly abate.

7. Malaysia considered the adoption of the UN Convention against Corruption as an important and timely instrument to combat corruption. The delegate informed the gathering that Malaysia had already signed the UN Convention against Corruption and generally had the domestic legislation in place to carry out its obligations. He (Malaysia) called upon the other Member States to take positive steps in becoming a member of the Convention and also called upon AALCO Member States to enhance cooperation so as to ensure that their common objectives and goals were met. Malaysia had also initiated negotiations on a multilateral Treaty on Mutual Assistance on Criminal Matters among like minded ASEAN countries, to enhance cooperation among member countries in combating transnational crimes. He informed that this initiative had received positive

support and the like minded countries were working towards the goal of finalizing the proposed Treaty in the very near future.

8. The Delegate drew the attention to the Cancun Ministerial Meeting held in September 2003. Malaysia saw the powerful signals emitted from Cancun as indicating a new identity for developing countries. It firmly believed that a multilateral system had to be based on the perception among its members of the conceptualization of shared benefits. It wanted a serious attempt to be made by all countries to usher in a reformed WTO process. Malaysia wanted member countries to look and work towards a reformed and improved WTO.

9. The Leader of the Delegation said that Malaysia maintained the view that the fundamental problem within the DSU was non-compliance with the Panel rulings. Malaysia had made a proposal to introduce Preventive Measures in the WTO DSU. Preventive measures would not only seek to minimize the damage for any alleged inconsistent action but also would provide temporary relief and allow the suffering member to maintain *status quo* while the alleged inconsistency was being determined. He also expressed Malaysia's concern with the time taken for the whole WTO dispute settlement process to be concluded and was of the view that some kind of Preventive Measures were necessary to prevent injury that could lead to irreparable harm. Malaysia believed that the prescribed Preventive Measures would provide effective relief that would ensure survival of the suffering member's domestic industry. The proposal was not aimed at giving any party either developed or developing countries an unfair advantage but merely to provide an avenue to seek justice in the avoidance of an irreparable injury i.e. loss of market access unfairly imposed.

10. He announced the appointment of Dato' Syed Ahmad Idid as the new Director for KLRCA. He informed that Malaysia was very serious about making this Center as Regional Center for the region instead of being merely a National Center. He also reiterated the resolution on "Progress Report on Regional Centers for Arbitration" which was made at the AALCO Forty-Second Session held in Seoul. Malaysia had continuously sustained the KLRCA by providing annual grants for the smooth operation of the center. Malaysia was also undertaking a study to review its existing arbitration laws to keep it up-to-date with the developments in international arbitration laws and hence make arbitration a more attractive option for dispute settlement in the region. He sought the collective efforts of all the Member States of AALCO to promote and utilize the facilities of the KLRCA.

11. The Leader of the Delegation expressed his agreement on behalf of Malaysia with the agenda items listed for discussions. Malaysia firmly believed that the Forty-Third Session would serve as an effective and efficacious forum for the discussion of current as well as new issues and challenges faced by the international community as a whole.

12. The **Leader of Delegation of Sudan**¹ thanked the Government of Indonesia for their hospitality. He stated that the protection of refugees was one of the important duties

¹ Statement delivered in Arabic. Unofficial translation from the Interpreter's version.

of the international community and Sudan had been giving protection to many refugees. He expressed concern about the extraterritorial application of national legislation. While emphasizing the significance of Folklore he appreciated the initiative of AALCO for its inclusion on its agenda the item “Expressions of Folklore and its International Protection”. He said that Sudan was a party to all the conventions dealing with terrorism and it was ready to cooperate with the international community in the fight against the heinous crime of terrorism. He further expressed concern about the deteriorating situation in the Middle East. He expressed the view that the issue of Human Rights in Islam needed a deeper understanding. Finally, he emphasized Sudan’s determination to uphold the principles of international law.

13. The **Leader of Delegation of South Africa** said that it brought him much joy to be representing South Africa as a full member of the Asian-African Legal Consultative Organization. He thanked the countries that gave support to his country’s request to be admitted in AALCO as a full member. Their acceptance was a further edification of the South African democratic process, which this year celebrated 10 years of freedom.

14. He further said that it was heartening that the meeting was taking place in Indonesia, the country that hosted the historic Afro-Asian Bandung Conference, in 1955, where the basis was laid for AALCO. That conference put in place a process to define a common future for Asian and African people. That conference reflected the common view that Asia and Africa shared a common destiny. It was common destiny that had motivated his country South Africa to be part of AALCO and participate in its shaping by ensuring that it acted on the basis of Afro-Asian solidarity to achieve the improvement of the quality of life of the peoples of the region. He emphasized that the challenge remained was that the countries of the region intensified their work together, to achieve the common objective of the eradication of poverty, the building of developed societies and the occupation of their rightful place in the world that continued to be characterized by unequal relations between a developed North and a developing South.

15. Thereafter, the delegate of South Africa stated his views on some of the agenda items under consideration of AALCO’s Forty-Third Session. He mentioned that the International Criminal Court had now received at least two referrals from States within the African continent, namely, from Uganda and from the Democratic Republic of Congo. These referrals were a testament to Africa’s commitment to pursue the goal of peace through justice by ending the culture of impunity for international crimes. South Africa had ratified the International Criminal Court Statute and it had implemented the crimes under the said Statute into national law and provided legal mechanism to provide the International Criminal Court full cooperation and encouraged other States to do the same.

16. Moving on to the Report of the International Law Commission (ILC) he said that it continued to be of relevance in the development and codification of international law. The ILC had identified new topics for research and AALCO could make a valuable contribution to the current projects as well as new projects identified by the ILC. As regards the topic of Extra-territorial Application of National legislation, he said that it in

itself was not necessarily an offensive development; however the unilateral imposition of sanctions on third States and attempts to cajole other states to give effect to such unilateral sanctions was abhorrent. The aim should be to strengthen the multilateral institutions such as the United Nations so that they were able to effectively respond to issues of international peace and security. He stated that any attempts to endorse unilateral actions must be resisted.

17. The Delegate stressed that it was important that an affective International Legal Instrument Against Corruption be developed. The United Nations had been engaged in deliberating such an instrument and the United Nations Convention against Corruption of 2003 which was now open for signature. It was important for good governance that all forms of corruption were eliminated through detection and effective punishment by seizure of ill gotten assets.

18. The Delegate emphasized that the Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law, particularly the Fourth Geneva Convention of 1949 must stop. South Africa recently made presentation before the International Court of Justice against the erecting of the Israel wall, which divided families and constituted a further violation of the rights of Palestinians. The South African view was that the wall was illegal because it constituted a de facto annexation of Palestinian land and was contrary to humanitarian law that applied to occupied territories. He said that his country elected to make representation before the International Court of Justice because it had suffered so much against the injustice of Apartheid and cannot now remain silent in the face of the injustice suffered by Palestinians.

19. Finally, he expressed his deep gratitude to the host for the excellent arrangements for the conference. The Delegate emphasized that 47 members and growing, AALCO was on route towards a strong Afro-Asian movement for a better life for peoples, of the region and that his country was privileged to be part of the Organization.

20. The **Leader of Delegation of Republic of Indonesia**, on behalf of the Government of the Republic of Indonesia, cordially welcomed the distinguished delegates and participants to the Forty-Third session. He expressed his pleasure on the participation of more than two hundred and fifty distinguished participants from Member States, Observer States and the International Organizations in the AALCO's discussions of current issues of international law and other legal matters of common concern.

21. He acknowledged that the AALCO had been playing an important role as an advisory body to discuss issues on international law and as a forum for Asian-African cooperation in legal matters in which members could convey its aspiration to develop international law. Therefore, it had special cooperation with International Law Commission and constantly followed, observed and included report of ILC in its agenda.

22. He recognized that during 48 years since its establishment, AALCO's endeavours had surpassed their expectations. The Government of Republic of Indonesia had long

recognized the importance of AALCO with high appreciation for its numerous contributions to the development of international law. He added that in light of this remarkable achievement, it was their fervent hope that this Forty-Third session would be a noteworthy opportunity to discuss international legal issues and promote further regional cooperation dedicated to the pursuit of democracy, respect for human rights and the rule of law.

23. He stated that as a matter of information, Indonesia and South Africa had the privilege to host an important preparatory meeting within the framework of the Asian-African Sub Regional Organizations Conference in keeping the spirit of 1955 Bandung Conference. These endeavours sought a new mechanism for translating common vision of countries of Asia and Africa and brought them toward a better future based on their collective self-reliance and with the support of their development. These meetings took place prior to the Observance of the Golden Jubilee of the Asian-African Conference in Bandung, 2005.

24. Further, he provided that this conference would therefore, gather and discuss the concerns and ideas of the two continents towards a new and better future for Asia and Africa. The conference was also convened to fill a great need and to serve as a unique bridge between the two continents. He added that, having said so, it was the expectation of his delegation that all members of AALCO could participate in the coming Golden Jubilee of the Asian-African conference since their participation would reaffirm potential role of AALCO itself in developing law for the benefit of the Asian-African countries as well as the whole world and humanity.

25. He stated that his delegation was of the view that the Forty-Third Session was of paramount importance because it was expected to consider a number of current issues in international law. He said that his delegation supported the proposal made by the Secretary-General that the protection and the preservation of the treasures of their folklore be voiced by this Session.

26. He underlined that the United Nations Convention on the Law of the Sea (UNCLOS) 1982 had made a significant contribution to international peace and security by replacing a plethora of conflicting claims with universally-agreed limits on the territorial sea, the contiguous zone, the exclusive economic zone (EEZ) and the continental shelf. The AALCO had consistently taken the matter pertaining to the law of the sea into account as an important agenda in its meetings and saw that the legal structure of the law of the sea should accommodate the need of developing countries and other states that had particular characteristic.

27. Further, he said that learning the fact of the increasing number of cases on trafficking in person specially women and children, in the Forty-Second session, the Government of the Republic of Indonesia proposed a one-day special session to further discuss the aforesaid issue in the Forty-Third session. He expressed that the Government of the Republic of Indonesia would like to thank all of delegates for adoption of this one-day special session. Through this session, he said, they expected that the issue could be

discussed comprehensively from all aspects and, be used as forum of exchange of information, sharing of best practice to strengthen national and regional efforts in preventing and combating trafficking in women and children.

28. He informed that the UN Convention against Corruption was signed by participants of the High-Level Political Conference in Merida, Mexico on 9-11 December 2003. Indonesia had signed the said Convention on September 18th, 2003 in New York. The establishment of the UNCAC was a successful effort in combating corruption. He said that his delegation considered the importance of further implementation of the UNCAC through genuine political will, international cooperation, mutual legal assistance, and extradition, capacity building on prevention against corruption, joint investigation and technical-financial assistance.

29. He welcomed South Africa as a new member to the Organization and added that his Government would continue, along with other Member States, to encourage other Non-Members States in Asia and Africa to give serious consideration to becoming AALCO members in the near future. He expressed his pleasure to have a great number of participants from the non-Member States and international organization concerned as observers at this meeting.

30. Finally, he assured that his Government as the host country would do its utmost to make this Bali Session a great success of the AALCO and welcomed again, on behalf of his Government, all the delegates to Bali, Indonesia and wished a pleasant stay in the 'Island of Gods'.

31. The **Leader of Delegation of Mauritius** at the outset expressed his gratitude to the President of Republic of Indonesia Her Excellency Megawati Soekarnoputri and the Hon'ble Minister of Justice and Human Rights His Excellency Mr. Yusril Ihza Mahendra and the Host Committee for the excellent arrangements for the Session. He then congratulated the President and Vice-President of the Forty-Third session on being elected as President and Vice-President of the session and expressed his full confidence that under their leadership and enlightened guidance the meeting would be successful. He thanked the Secretary-General for providing very comprehensive and exhaustive reports of the Organization's activities and the organization budget.

32. He also welcomed and appreciated the initiatives of various international organizations in favour of AALCO. Further, he welcomed the admission of the Republic of South Africa as the new Member State of AALCO and added that the Organization should continue to make efforts to enlarge its membership.

33. He underlined that the Asian-African countries should join hands in order to be more effective in voicing their views at all the international foras as well as on all the important international issues that concern both the regions, by developing common positions to promote the spirit of Bandung Conference.

34. He stated that Mauritius would extend its best endeavours to strengthen the

traditional bonds which had linked the two continents. He highlighted that Mauritius had signed and ratified the Palermo Convention; the Rome Statute of International Criminal Court and the UN Convention against Corruption.

35. Finally, he expressed his pleasure on the progress of work of the AALCO Headquarter's building and thanked the Indian Government for all their assistance and cooperation to enable AALCO to attain this goal.

36. The **Leader of Delegation of Palestine**² congratulated the President on his election and thanked the Secretary-General of AALCO and its technical staff for their efforts in leading Organization forward to achieve its goals. He conveyed compliments from the President and the people of Palestine. He thanked all delegations that praised the struggle of Palestinian people and called for the immediate end of the bloodletting of innocent Palestinians and to reach a lasting, comprehensive and just resolution, restoring the Palestinian people their just and legal national and political rights on par with all peoples. He said that since the early days of humanity the perpetual struggle was and continued to be between the force of law and the law of force (the law of jungle, domination, unilateralism and arrogance) which would continue till the force of law prevails. He underlined that the people of Palestine had been the victims of law of force approximately for one hundred years. He further said that the resolutions and recommendations of this session represented a shimmer of light and hope at the end of the tunnel that would provide a promised healing touch in the veins of a wounded people and support them in their terrible human ordeal.

² Statement delivered in Arabic. Unofficial translation from the interpreters' version.