



**Statement by H. E. Mr. Mehdi Danesh-Yazdi
Deputy Minister of Foreign Affairs of the Islamic Republic of Iran and
President of the Fifty-Third Annual Session of AALCO**

On the Occasion of his Visit to the AALCO Headquarters

**“New Challenges in International Law and the Role of AALCO
in Enhancing Asian-African Solidarity”**

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بسم الله الرحمن الرحيم

Excellencies,

Dr. Rahmat Mohamad, Secretary-General of AALCO,

Deputy Secretaries General,

**Distinguished Ambassadors, High Commissioners and Liaison Officers of
AALCO Member States,**

Distinguishes Delegates and Observers,

Ladies and Gentlemen,

It gives me immense pleasure to be here in the AALCO Headquarters and to speak to this esteemed audience at such a prestigious forum. I feel obliged to begin by voicing my deep appreciation to H. E. Mr. Rahmat Mohamad, Secretary-General

of AALCO, and his team for their support and cooperation in organizing this event. On behalf of AALCO and on my own behalf, I take this opportunity to express my gratitude to all distinguished participants for sparing their valuable time to grace the occasion.

Brief Report on 53rd Annual Session

Well aware of the crucial mandate given to AALCO, The Islamic Republic of Iran was granted the opportunity to host the 53rd annual session of our Organization from 15 to 18 September 2014 in Tehran. This was the third time in the lifetime of the Organization that Iran hosted AALCO's annual session, the first and the second being held in 1976 and 1995, respectively. The 53rd session was attended by 39 Member States and other entities including regional arbitration centers and a number of non-member states including UNDP, UNODC and ICRC. The participants held intense deliberations on various topics on the Agenda of AALCO including sanctions, the issue of Palestine, protection of the environment, the law of the sea, status and treatment of refugees, and exchanged views on selected items on the agenda of the International Law Commission in the presence of some prominent members of this Commission. All that coupled with the inclusion of two new issues, namely 'violent extremism and terrorism' and 'international law in Cyber-space' on the agenda of AALCO, is witness to the vigilance of the Member States to take up emerging and urgent issues and further contribute to the formation of the norms relevant thereto. However, more work is still needed to explore the depth and scope of threats emanating from immediate challenges such as extremism-originated terrorism and abuse of cyber-space and technology. We are looking forward to having more thorough consideration of these two issues at the coming session of AALCO in

Beijing later this year. I humbly urge all member States to assist the Secretariat in its efforts to prepare well-researched documents for the Beijing Session by providing input on these two issues.

Distinguished participants;

Having the privilege of visiting the Headquarters of the Asian African Legal Consultative Organization at this juncture, I keep reminding myself of the philosophy and *raison d'être* of this body. And I wonder if and how the Organization can maintain its relevance in today's world. Further even, how could the Organization mark a lasting 'footprint' in international law-making processes, if not create a 'footpath', rather than be a petty occasional 'footnote' in the pages of international law? The answers to these questions are very much dependent upon the ways we, the Member States, collectively react to the challenges we face, as the future of our Organization and its relevance is very much tied to the commonality of our cause and solidarity toward achieving our goals.

Let me walk you quickly through history, if I may. Originally molded as an outgrowth of the milestone 1955 Bandung Conference, the Asian African Legal Consultative Organization - at first a presumably non-permanent Committee comprising only of Asian countries - was assigned the key responsibility of propagating Asian views of international law. Soon after, African countries were warmly welcomed to join the newly constituted body in November 1958 and, consequently creating the only inter-State body spanning two largest continents of the world. Asia and Africa stood together, then, and willed to join hands in order to inform international law. This was not only a great show of solidarity as Asia and Africa of 1950's shared much in common, but also a high incidence of an

unprecedented reservoir for impacting international norm-making. And it was only expected that the new entity, branded as 'consultative', would make a difference when it came to making of rules of international law. That how much AALCO has lived up to that expectation is not the subject of my presentation today, though it is a valid and open question which should be thoroughly examined and faithfully responded to. My point is how could an Organization, benefiting from the presence of a group of nations with similar backgrounds and many common concerns and interests, play an effective role in the formation and promotion of international norms dealing with new and emerging challenges. And I'll argue that the answer to this question would be through 'solidarity' between and among its members.

Diverse challenges we face

There are myriads of challenges our human civilization, and in fact the mother Earth, has to face. Diverse threats to peace and security, including widespread extremism-originated terror violence, nuclear arms race, unresolved and new armed conflicts, transnational organized crimes, as well as serious challenges such as rapidly deteriorating environment, increasing vulnerabilities in cyber-space and setbacks to international humanitarian law, to name only a few, are set to test our collective wisdom and resolve in handling them. I do not intend here to expound on these threats and challenges. Suffice it to say that many of these challenges are, more or less, shared by all States, in particular in Africa and Asia. However, violent extremism and terrorism, cyber security, and new challenges to international humanitarian law are among the most urgent ones.

Violent extremism and terrorism: an old challenge with new faces

International terrorism has been on the agenda of the international community for more than 4 decades now. AALCO has been no exception in the prevailing mood as this issue has been a subject of constant deliberations for quite some time. However, for the past couple of years terrorism has transformed from a mainly sporadic use of power-related indiscriminate violence against civilian targets to an ideologically-motivated widespread and systematic mass annihilation of populations. The horror of massacres by Boko Haram in Africa and brutal mass executions by so-called ISIL/ISIS in the Middle East, all being justified under an ultra- extremist interpretation of faith, is hardly matched in history.

Many States have vehemently rushed to mobilize forces and fight back this wave of violent extremism and terrorism; international law has yet to craft legal rules to underpin and regulate the countermeasures, nonetheless. There seems to be an undeniable lacuna in legal concepts for countering violent extremism, partly due to the subjectivity of 'extremism' and partly because of the nature of extremist groups, particularly in Iraq where ISIL has managed to secure a quasi-State status by controlling a large swath of territory. This, nevertheless, should not obscure the obvious fact that the group has persistently resorted to the same tactics of terror violence, as those employed by groups and individuals traditionally recognized as 'terrorists', against civilian populations in furtherance of their political ends. Moreover, atrocities committed by violent extremist groups in the Middle East and Africa have all the characteristics and ingredients of 'acts of terrorism' discerned by the United Nations and many other credible and recognized norm-making platforms

through years. This leaves very little doubt as to the applicability of international 'counter-terrorism' legal regime to the acts and activities of the violent extremist groups. In other words, in the face of apparently limited State practice in dealing with violent extremism, there is ample evidence to establish that the legal regime developed through dozens of piecemeal-oriented treaties and bolstered by scores of United Nations resolutions is best placed to provide necessary legal framework for combating violent extremism in Asia and Africa. While 'violent extremism' might not be necessarily equalized with 'terrorism', in effect the former has provided a nascent ground for the latter's outbreak and, then, could easily be qualified as 'incitement' to terrorism.

While State and UN practice regarding 'violent extremism' awaits further crystallization, AALCO could expedite this process by conducting an expert investigation into the issue and preparing a set of legal guidelines applicable to the issue at hand. The fact that 'violent extremism and terrorism' has widely affected AALCO member States, in one way or the other, and continues to endanger peace, stability and security of many nations in Africa and Asia and even beyond, add to the urgency of the issue. The United Nations General Assembly has already recognized the exigency and dire consequences of this phenomenon for regional and international peace and security.¹ The adoption by the UN Security Council of resolutions 2170 and 2178 which has, among others, introduced the new concept of 'foreign terrorist fighters' signals how serious and widespread 'extremism-motivated terrorism' has become and that existing legal norms should be aptly employed to tackle this menace.

¹ . A/Res/68/127, 18 December 2013 entitled 'A world against Violence and Violent Extremism'

International Humanitarian Law: Victim to collateral damage of new technologies

Respect for international humanitarian law in international and non-international armed conflicts is essential to enhancing protection of civilians affected by hostilities. However, new trends in conduct of warfare seem to have transformed some fundamental concepts in *jus in bello*, or blurred them, to say the least. Frequent use of unmanned aircrafts (drones) to hunt down the adversaries, increasing tendency to rely on 'private military' instead of traditional army, and mushrooming of non-State belligerence, direct real challenges to this solidly established field of international law. Use of new technologies in warfare can jeopardize the very two basic principles of IHL, namely 'distinction' and 'proportionality' in the conduct of hostilities. Drones, deployed allegedly to hunt terrorists, have claimed lives and limbs of thousands of innocent civilians, particularly in Asia. 'Private military operations' continues to be flourishing in many parts of both continents, while their acts and omissions remain unregulated for the most parts, and many a time they commit atrocities amounting to war crimes with impunity. Non-State actors, including those labeled as 'terrorist' or 'militants' in many parts of the globe cause havoc among civilian populations in their war-like activities between each other and/or against States. These are but a few forces challenging the implementation and enforcement of IHL and putting its credibility and totality at risk.

Lack of respect for fundamental rules of international humanitarian law especially by non-state actors and the legal questions surrounding the compliance of international humanitarian law in non-international armed conflicts remains unanswered. Again, AALCO, as an Organization comprising of many Asian and

African nations with live issues and fresh experiences in the field of IHL, should have its say and play its part in adjusting the old norms to emerging circumstances.

Cyber space: a lawless domain

Human breakthroughs, if left unregulated, could bring along disadvantages capable of posing real challenges to peace and security. Cyber space is one such area. The over independence of cyber technology may have backlashes of the same magnitude. Cyber space, by definition, is *sans frontier*, without borders, and that is the main issue as far as regulating this space is concerned.

The question of jurisdiction in cyberspace has been addressed by many States at the national level and is still blurred by lack of clear criteria. States encounter a wide range of issues when it comes to application of any kind of jurisdiction in a space void of tangible boundaries. While the issue is intertwined with different areas of national and international law including telecommunications law, aviation law, law of space, law of the sea, international humanitarian law and human rights law, the implementation of the existing norms seems to be hardly adequate to address the problems caused by malicious network operations.

While any unauthorized infiltration into a State's cyber domain may be regarded as an encroachment upon the sovereignty and jurisdiction of the targeted State, not all cyber-attacks have been criminalized under national jurisdictions. Many tend to cross borders and cause damage to infrastructures of other States, at the same time. Some types of cyber-attacks are regulated at the national level as cyber-crimes; for the rest which comprises instances of State-sponsored cyber operations against vital infrastructures of the targeted State(s), the applicability of the existing

international legal norms need to be carefully and properly examined. Employed as means of warfare, malwares could be used to diminish the military power of the enemy and thus undermine the implementation of rules of international humanitarian law. And finally, when cyber-attacks are directed against a particular nation through a computer system existing in the territories of a third party, intricate rules of state responsibility come into play. Thus, harmful cyber operations, in peacetime or in time of war, need to be regulated through the adoption of regional or global instruments detailing the specific rights and obligations of States and their jurisdictions in cyberspace. Whereas the main classical international legal framework has been established in a time unknown of digital connections, codification of certain new rules seems unavoidable and inevitable.

In the light of the what I just said, and given the extraordinary damage the abuse of cyber technology could cause to vital public and private infrastructure, AALCO members decided, during the 53rd Annual Session, to add this subject to the agenda of the Organization. The timely inclusion of the topic “International Law in Cyber space” is a significant step towards developing appropriate rules and norms to govern and regulate responsible use of cyberspace and protecting and promoting cyber space security.

How to address the challenges

The three examples I cited, were picked for the purpose of argument, although all three are currently under review by AALCO. It is taken for granted that it would only be through the ‘rule of law’ that we could overcome those challenges. Otherwise, we might end up in a state of chaos and lawlessness. In fact, International law is expected to play an essential role in addressing such challenges.

Challenges are destined to surface, sooner or later, even if not actively identified by us. Thus, our active interference is imperative to identify practical and effective ways to address the challenges we face. Furthermore, they should be addressed not solely by individual States but by promoting 'renewed collective actions'. This collective will is the main prerequisite for 'solidarity'. Solidarity is based on 'common concerns' and achieved through team spirit, unity and cohesion. Solidarity is shown not just in the moment of a sudden crisis but it persists in the long run as well. Solidarity must be enacted if it is to endure. And that's exactly what I mean by inviting Asian and African nations, with so many common concerns and shared responsibilities, to join hands in identifying viable solutions for all kinds of challenges they face. In international legal discourse, this is realized through coordinated and informed 'practice' accompanied by '*opinio juris*' which, together, constitute the inception of a new legal norm. This is not an easy task, I should admit, but given the high level of commonalities among AALCO member States, it is accessible.

'Solidarity' among Asian and African nations in the field of international law entails active and cohesive participation of States in codification of legal norms into law. The common denominator is 'active and free-from-pressure participation in norm-making processes' by all, and here I'm talking about Asia and Africa. And that's the only way to make sure that the Organization comprising of nations from these two regions would not creak under the strain.

Dear Colleagues;

There is a bitter reality that we should not be shy to admit. That reality is that our influence in norm-making endeavors has diminished over years and we have far

passed the golden time of 1960's and 1970's when developing countries had managed to gain a solid foothold in both codification and progressive development of international law. It is a sad irony that our number has more than tripled but our impact has shrunk to a minimum level. By this disturbing confession, let me revert to my original question on the AALCO's relevance in today's international relations. AALCO will maintain its relevance as long as it can contribute to the creation and/or preservation of values dear and important to the international community. 'Peace and security' through rule of law is by far the most valuable commodity in the community of States. AALCO is potent enough to make concrete contributions to the world's peace and security by promoting the rule of law at the international level. The Organization can enhance its credibility and higher recognition if, through the coordination and assistance of its members and the effort of a capable Secretariat, play a more serious, effective and meaningful role in the realm of international law regionally and globally. The more coordinated and unified the Member States act in the law-making activities, the more influential and prominent role AALCO would assume in international law sphere.

In closing my statement, I wish to appeal to all Member States of this august Organization to focus on our common goals, enhance our solidarity, work together to explore various practicable options and find innovative solutions to the challenges we all face at home, in our neighborhood or beyond. I am not dreaming. These can happen; and if they do, we will witness to have an effective body of States capable of leaving their footsteps in international law

Thank you very much for your kind attention.