

Status and Treatment of Refugees to commemorate the 30<sup>th</sup> Anniversary of the Principles of Refugees adopted by the AALCC at its 8<sup>th</sup> Session in Bangkok in 1966".

A Preparatory Meeting of the AALCC Member States held at New Delhi in September 1996 adopted the main objectives and format of the Commemorative Seminar:

- (i) It was agreed that the Seminar should be held from 11 to 13 December 1996 at Manila, the Philippines;
- (ii) The aim of the commemorative event should be:
  - (a) the promotion of the knowledge of these principles; and
  - (b) their re-examination in the light of developments in law and practice in the Afro-Asian region since 1966, with a view to recommending further action.
- (iii) The following four subjects were identified for focussed consideration at the Manila Seminar: the refugee definition; asylum and standards of treatment; durable solutions; and burden-sharing.

The Seminar, jointly organized by the AALCC and UNHCR, with financial support from the Government of Japan was held at Manila from 11 to 13 December 1996. The Seminar was attended by Representatives of 26 Member States, 2 Observer States and officials of the AALCC Secretariat and the Office of the UNHCR. In order to facilitate discussion it was agreed to constitute four Working Groups to debate the issues relating to (i) definition of refugees; (ii) asylum and standards of treatment; (iii) durable solutions; and (iv) burden-sharing.

The deliberations conducted in parallel sittings of the Working Groups were guided by the moderators. At the end of the deliberations the moderators of the respective Working Groups submitted a report to the Plenary.

The Seminar also recommended that the Secretary General of the AALCC submit the final report and conclusions of this Seminar to the Thirty-sixth Session of the AALCC to be held in Tehran in 1997, and that the re-examination of the Bangkok Principles on Status and Treatment of Refugees be introduced at that Session as a key sub-item under the item "Status and Treatment of Refugees".

Accordingly, the Secretary General in his report to the Committee at its Thirty-sixth Session (Tehran, 1997) conveyed the outcome of the deliberations and the set of recommendations adopted at the Manila Seminar. While some delegates wished to carry forward the process of review set in motion by the Manila Seminar, others had called for a more detailed study of the recommendations before undertaking any further work. Hence, the Committee in its resolution on this item, while acknowledging the importance of the recommendations adopted at the Manila Seminar, requested "the Secretary General to convene as appropriate, a meeting of experts in order to conduct an in-depth study of the issue, in light of the recommendations of the Manila Seminar as well as the comments thereon at the current Session and report to the Thirty-seventh Session.

#### **Expert Group Meeting on Status and Treatment of Refugees, Tehran, 11-12 March 1998**

In fulfillment of this mandate, at the invitation of the Government of the Islamic Republic of Iran, a meeting of experts was convened with the financial and technical assistance of UNHCR at Tehran from 11 to 12 March 1998. The Meeting was attended by 29 Member States, as well as officials from the AALCC Secretariat and UNHCR. The deliberation at the Expert Meeting was again with reference to the following four themes: definition of refugees; asylum and standards of treatment; durable solutions; and burden-sharing.

The deliberations at the Expert Meeting, while reviewing the Manila recommendations, also offered scope for addressing specific issues regarding the four identified themes. Drawing

upon their national experience in dealing with refugee problems, delegates examined the formulations arrived at the Manila Seminar. Overall, the discussions focussed on the need to reconcile the fundamental interests of States and the humanitarian obligations of States to protect refugees.

The Expert Meeting also directed the AALCC Secretariat to prepare an in-depth study of the refugee issue in the region and to formulate draft proposals to the Bangkok Principles, so as to reflect the contemporary regional characteristics as expressed in the recommendations of the Manila Seminar and the deliberations at the Tehran Expert Group Meeting.

### **Thirty-eighth Session: Discussion**

The Deputy Secretary General, Mr. Ryo Takagi introduced the Report of the Secretary General on this subject. Recalling the mandate of the 37<sup>th</sup> Session of AALCC which requested the Secretary General to undertake consultations with AALCC Member States on the consolidated text on revision to the Bangkok Principles, he said that the Secretary General had in May, October and December 1998 written to the Member States seeking their response on the consolidated text. Accordingly, the Secretariat has received comments from ten Member States - China, Indonesia, Japan, Jordan, Pakistan, Saudi Arabia, Singapore, Sudan, Tanzania and Turkey. With a view to ensuring progress on this item, he urged the other Member States to communicate their views to the Secretariat at the earliest.

The Representative of the Office of the United Nations High Commissioner for Refugees (UNHCR), Mr. Richard Towle conveyed the wishes of Mrs. Sadako Ogata, the UN High Commissioner for Refugees for the success of the 38<sup>th</sup> Session. The phenomenon of forced displacement of people is clearly universal and hence the response of the international community, he stated, must equally be a global one. With its special responsibility to provide protection to refugees, he declared that UNHCR fully recognizes and appreciates the generous hospitality extended by AALCC Member States to

countless millions of refugees. At a time of increasing complex humanitarian emergencies world-wide, UNHCR believes that a broadly agreed framework of legal principles provides the basis for any predictable, principled and balanced action. Characterizing the 1966 AALCC's Bangkok Principles as one such legal framework that has withstood the passage of time, he said that new reference points are also required to ensure their continued relevance and flexibility to the problems of the present and future. In this connection, he recalled the exercise undertaken towards a comprehensive revision of the Bangkok Principles, within the AALCC, over the past three years.

Commenting on the draft consolidated text on the proposals for the revision of Bangkok Principles submitted to the 37<sup>th</sup> Session of the AALCC, he said that the text reflects the individual views and concerns of States - either in the body of the text or through a helpful series of footnotes. Acknowledging that not all of the principles are applicable to every context, he was of the view that, the consolidated text provides a broad and balanced framework by which States future policies and practices can be guided. Terming the response of AALCC Member States to the consolidated text as encouraging, he expressed the belief of UNHCR that the time was now ripe to bring this particular series of consultations to some positive conclusion. Pledging the continued support of UNHCR to this process, he expressed the hope that AALCC will continue to be a forum where the basic principles of refugee protection in the Asian and African regions can be frankly debated, revitalized and reinforced.

*The Delegate of Palestine* recounted the experience of Palestinian refugees during the last 50 years. Condemning Israeli practices that triggered mass influx of Palestinian refugees, he stated that the 'right of return' of Palestinian people as affirmed by the resolutions of the UN General Assembly have not been honoured. While citing instances of Israeli practices violating international humanitarian law, he drew attention to the plight of Palestine refugees being hosted in Egypt, Lebanon, Syria and Jordan. Making a reference to the Camp-David Agreement, he said that Israel has for the past 20

years since the signing of that agreement failed to fulfil its obligation to facilitate the return of a stipulated number of Palestinian refugees. Citing the example of Kuwait and Kosovo – wherein the world community had actively intervened on behalf of the victims, he said that the international community had adopted double standards in responding to the resettlement policies pursued by the Israeli Government.

To appropriately address the situation of Palestinian refugees, he suggested that the AALCC could examine the legal characteristics of the phenomenon of “deportation” within the refugee law framework.

*The Delegate of Ghana* commended to the Session to ponder over the views of the President of Ghana on the need to study and promote the status of women and children. Drawing attention to the vulnerable character of this section of the population, he urged effective action as outlined in the UN Convention on the Elimination of All Forms of Discrimination against Women and the Convention of the Rights of the Child. He recommended that the Committee consider including this topic in its agenda.

*The Delegate of the Islamic Republic of Iran* recalling the work of the Committee on this topic since 1963, stated that the Asian-African countries had over the past three decades developed a positive practice on the treatment of refugees. He informed that in the 1990s Iran had hosted 4.5 million exiles from Afghanistan and Iraq – the largest number of refugees handled in recent years. With the ongoing crisis in the neighbouring countries rendering the situation further complex, he said that prospects for durable solutions remained elusive. As regards the consolidated text tabled at the 37<sup>th</sup> Session at New Delhi, the delegate made elaborate comments on issues pertaining to – definition of a “refugee”, asylum to a refugee, minimum standards of treatment, right to return, other solutions and burden sharing. Expressing his support to the initiative for updating the Bangkok Principles he reaffirmed Iran’s readiness to co-operate with the AALCC and UNHCR in this regard.

*The Delegate of Pakistan* affirmed the importance of the study on refugees and invited attention to the observations of the President of Ghana in his inaugural address that the international community needs to evolve concerted strategies to address the burden of refugee movements. Speaking on the experience of his own country, he said Pakistan had earlier hosted 3.5 million Afghan refugees and is currently hosting 1.5 million refugees. Speaking on the AALCC- UNHCR initiative to revise the Bangkok Principles, he stated that there was considerable consensus on many provisions of the consolidated text and hence the AALCC Secretariat must examine the proposals in the light of the comments received from the Member States. He recommended the convening of a meeting to consider the objections or modifications, if any, that the Member States may propose to the text. It was his delegation’s view that the revised text be adopted as early as possible.

*The Delegate of the Arab Republic of Egypt* thanked the Secretariat for its report and the Representative of the Office of UNHCR for his statement. The AALCC-UNHCR Tehran Expert Group Meeting held in 1998, he said, provided the opportunity for the AALCC to consolidate its work on the subject. Drawing attention to the proposal submitted by Egypt at the Tehran Meeting, he offered brief comments on certain aspects of the issues under consideration for revision. As regards the “refugee definition”, he said that the consolidated text should ensure that persons charged with crimes of terrorism are excluded from availing the status of refugees. In this connection, he called for enunciation of a clear definition of “political crimes”. Thus, the establishment of appropriate Principle’s and mechanisms (Article 11 of UN Convention on Suppression of Terrorist Bombings) to exclude such terrorist elements from enjoying refugee status, is imperative to protect genuine refugees and prevent the abuse of the institution of asylum. With respect to “minimum standards of treatment”, he said that most of the refugee hosting countries were developing countries and hence require support from the international community to ensure compliance with their obligations in this regard. On durable solutions, his delegation was of the view that voluntary repatriation was the most appropriate one for

resolving refugee problems in Asian African region. In this regard, he emphasized the importance of assisting the countries of origin in facilitating the peaceful return and integration of refugees. In response to a proposal for establishment of a working group to discuss the responses on the consolidated text, he conveyed his delegation's willingness to participate in the deliberations of the Working Group.

*The Delegate of Ghana* in his intervention stated that consideration needed to be given to translating the Bangkok Principles into binding obligations possessing the character "hard" law. He also exhorted the AALCC Member States to accede to the 1951 Convention and the 1967 Protocol on Refugees.

(ii) **Decision on the Status and Treatment of Refugees**

**(Adopted on 23.4.99)**

The Asian African Legal Consultative Committee at its Thirty-eighth Session

Having considered the item Status and Treatment of Refugees and the Secretariat Document No.AALCC/XXXVIII/Accra/99/S.2;

Recalling its Resolution 37/4 which requested the Secretary General to undertake consultations with Member States and with the office of the United Nations High Commissioner for Refugees, in particular on the consolidated text of proposed revisions to the Bangkok Principles with a view to submitting to the Thirty-eighth Session recommendations on the said revisions;

Recalling the Report of the Secretary-General entitled "Status and Treatment of Refugees" and the consolidated text of revised proposals for the Bangkok Principles annexed thereto and presented to this Thirty-eighth Session;

1. Expresses appreciation to the Secretary General for undertaking consultations with Member States and with the Office of the United Nations High Commissioner for Refugees;
2. Takes note with interest of the Report of the Secretary General on the Status and Treatment of Refugees, the consolidated text of proposed revisions to the Bangkok Principles and the comments submitted by Member States, appearing as Annexes I, II and III to the said Report;
3. Acknowledges that the Bangkok Principles and consolidated text of proposed revisions thereto are of a declaratory and non-binding character on Member States and are intended to guide and inform Member States on relevant principles