



**WELCOME ADDRESS BY H.E. PROF. DR. RAHMAT MOHAMAD,  
SECRETARY-GENERAL, AALCO**

**Workshop on Trafficking in Persons, Smuggling of Migrants and  
International Cooperation, Putrajaya, Malaysia, 24-26 November 2010**

H.E. Mr. Priyasath Gerald DEP, Solicitor-General of Sri Lanka and Vice  
President of the Forty-Ninth Annual Session of AALCO,

Hon'ble Datuk Idrus bin Harun, Solicitor-General of Malaysia,

Excellencies,

Distinguished Delegates, Ladies and Gentlemen

At the outset, let me welcome you all to the *Workshop on Trafficking in Persons, Smuggling of Migrants and International Cooperation* jointly organized by the Attorney General's Chambers, Government of Malaysia and the Asian-African Legal Consultative Organization. I wish you all a pleasant stay in this beautiful city of Putrajaya and fruitful deliberation on this important topic.

I welcome H.E. Mr. Priyasath Gerald DEP, Solicitor-General of Sri Lanka and Vice President of the Forty-Ninth Annual Session of AALCO. We are thankful to Your Excellency for accepting our invitation.

I take this opportunity to thank the Government of Malaysia for sponsoring this Workshop. I also wish to place on record my sincere gratitude and appreciation to Hon'ble Tan Sri Abdul Gani Patail, Attorney General of Malaysia, for steering AALCO as the President of the Forty-Eighth Annual Session of AALCO and showing keen interest in its work and giving us necessary support for the activities of AALCO. This Workshop is one such event that the Attorney General's Chambers is

jointly organizing with AALCO and I thank the Hon'ble Attorney General and the Government of Malaysia for their immense support.

I also wish to take this opportunity to welcome all the Panelists and moderators who have kindly agreed and have come here for this workshop. I also welcome all the participants who have come from their respective capitals and also from their respective Missions here.

Excellencies, Distinguished Delegates, Ladies and Gentlemen,

Over the decades, smuggling and trafficking of human beings, especially women and children has been a serious challenge faced by the international community. Organized trafficking in persons is transboundary in nature and has affected every region of the world and is recognized internationally as a major law enforcement, human security, and human rights issue. Virtually every country in the world is affected by the crime of smuggling of migrants, whether as an origin, transit or destination country for smuggled migrants by profit-seeking criminals. Smuggled migrants are vulnerable to life-threatening risks and exploitation; thousands of people have suffocated in containers, perished in deserts or dehydrated at sea. Generating huge profits for the criminals involved, migrant smuggling fuels corruption and empowers organized criminal groups.

The topic "Establishing Cooperation against Trafficking in Women and Children" was included on the agenda of the AALCO at its Fortieth Session held in New Delhi, in June 2001 upon a proposal by the Government of Republic of Indonesia. The Government of Indonesia opined that the inclusion of the topic on the agenda of the AALCO would facilitate the deliberations on the topic which would, in turn, help to establish cooperation among Member States in preventing and combating the crime of trafficking in women and children.

The AALCO has been closely working on this issue, highlighting the problems faced by the countries in implementing the UN Convention against Transnational Organized Crime and its Trafficking in Persons Protocol.

The Secretariat reports have covered various dimensions of trafficking in persons especially women and children like the nexus between

international migration and trafficking in persons; linkage of trafficking in persons with international legal regimes like international human rights law, etc.; human rights violations especially women's rights involved and so on apart from dealing in detail with state's obligation in prevention of the crime as mentioned under the UN Convention against Transnational Organized Crime and Trafficking in Persons Protocol. Special Meetings were organized at the annual sessions in cooperation with Inter-Governmental Organizations during the Annual Sessions.

At the Forty-Eighth Annual Session held in Putrajaya, Malaysia in the year 2009, certain Member States raised the proposal of having a multilateral instrument among AALCO Member States on Mutual Legal Assistance in Criminal Matters and Extradition in order to facilitate cooperation in addressing transnational organized crime, particularly, trafficking in persons and smuggling of migrants. Subsequently, a resolution on the Special Meeting on "Transnational Migration: Trafficking in Persons and Smuggling of Migrants" (AALCO/RES/48/SP 1, 20 AUGUST 2009) was adopted which mandated the Secretary-General to constitute an open-ended Committee of Experts to conduct a study on ways and means to enhance mutual legal assistance in criminal matters among Member States for their further consideration. This was reiterated at the Forty-Ninth Annual Session of AALCO held in Dar es Salaam, United Republic of Tanzania from 5 to 8 August 2010. This Workshop is in pursuance of the mandate received from our Annual Sessions.

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Let me briefly highlight some of the major developments happened at the international and regional level on this topic.

During the last two decades, the world has witnessed major initiatives at the international and regional level to counter trafficking in persons and smuggling of migrants. The United Nations Conventions against Transnational Organized Crime adopted by General Assembly resolution 55/25 of 15 November 2000, and entered into force on 29 September 2003 is the main international instrument in the fight against transnational organized crime. The Convention represents a major step forward in the fight against transnational organized crime and signifies the recognition by Member States of the seriousness of the problems posed by it, as well as

the need to foster and enhance close international cooperation in order to tackle those problems.

The *Protocol against the Smuggling of Migrants by Land, Sea and Air*, adopted by General Assembly resolution 55/25, entered into force on 28 January 2004. The Smuggling of Migrant Protocol supplements the United Nations Convention against Transnational Organized Crime. It deals with the growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders. A major achievement of the Protocol was that, for the first time in an international instrument, a definition of smuggling of migrants was developed and agreed upon.

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, was adopted by General Assembly resolution 55/25. It entered into force on 25 December 2003. It is the first legally binding instrument with an agreed definition on trafficking in persons. The intention behind the incorporation of this definition is to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases.

The United Nations Global Plan of Action to Combat Trafficking in Persons was adopted by the General Assembly on 30 July 2010. It urges Governments worldwide to take coordinated and consistent measures to try to defeat the scourge. It also calls for the setting up of a United Nations voluntary trust fund for victims of trafficking, especially women and children.

The international community has concluded many human rights treaties, *inter alia*, to deal with human rights issues of women especially trafficking. Significant among them are: (1) the Convention on the Elimination of All Forms of Discrimination against Women, 1979; (2) the Convention on the Rights of the Child, 1989; (3) the International Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990; (4) The Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoptions, 1993; (5) the International Labour Organization (ILO)'s Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999; and (6) the Optional Protocol to the Convention on the Rights of the

Child on the Sale of Children, Child Prostitution and Child Pornography, 2000.

Regional initiatives with in Asia and Africa include, (1) the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution; (2) ASEAN Declaration against Trafficking in Persons Particularly Women and Children, 2004; (3) The Arab Initiative to combat human trafficking was launched during the Doha Foundation Forum 2010; and (4) the *Declaration on the Fight against Trafficking in Persons* adopted by the Heads of States and Government of the Economic Community of West African States (ECOWAS) was adopted in Dakar on 20-21 December 2001.

To guide the domestic implementation of the Convention and Protocols, the UNODC Model Law against Trafficking in Persons was developed by the United Nations Office on Drugs and Crime (UNODC) in response to the request of the General Assembly to the Secretary-General to promote and assist the efforts of Member States to become party to and implement the United Nations Convention against Transnational Organized Crime and the Protocols thereto.

The Bali Process is a regional initiative to ascertain practical measures to help combat people smuggling, trafficking in persons and related transnational crimes in the Asia-Pacific region and beyond. At the "Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime" held in Bali in February 2002, the process was initiated and the follow-up is a collaborative effort with representation from over 50 countries and numerous international agencies. The main activities of the Process are focused on capacity building of operational level officials representing justice, law enforcement, foreign affairs and other key agencies involved in combating people smuggling, trafficking in persons and related transnational crime. Under the Bali Process, two model laws were adopted which are: (1) Model Law to Criminalize People Trafficking and (2) Model Law to Criminalize People Smuggling. These instruments were adopted in compliance with the Protocols on Trafficking in Persons, Especially Women and Children; and Smuggling of Migrants. Both the Model Laws are relevant for consideration of the Member States of AALCO since they bring about a framework for application and implementation at national level.

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In the field of mutual legal assistance in criminal matters, at the international level, United Nations Model Treaty on Mutual Assistance in Criminal Matters was adopted by the UN General Assembly resolution 45/117 (1990) and subsequently amended by the UN General Assembly resolution 53/112 (1998). The model treaty requires the Parties to afford to each other the widest possible measure of mutual assistance in investigations or court proceedings in respect of offences the punishment of which at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting State. Regional initiatives in the Afro-Asian region need to be emphasized here. *ASEAN Treaty on Mutual Legal Assistance in Criminal Matters* was signed on 29<sup>th</sup> November 2004. *SAARC Convention on Mutual Assistance in Criminal Matters* was adopted on 3<sup>rd</sup> August 2008. The African Development Community adopted the *Protocol on Mutual Legal Assistance in Criminal Matters* on 3<sup>rd</sup> October, 2002. The Economic Community of West African States (ECOWAS) has also adopted a Convention on Mutual Assistance in Criminal Matters in the year 1992 and also pertinent to note is the *Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth* (including amendments made by law ministers in April 1990, November 2002 and October 2005). In this regard, I would like to highlight the suggestion made by the Delegate of India, at the recently held Panel Discussion on “Asian-African States: Challenges in International Law in the 21<sup>st</sup> Century” held in conjunction with the 54<sup>th</sup> Constitution day of AALCO on 15 November 2010 at the AALCO Headquarters, New Delhi. He proposed that the AALCO to draft an Asian-African Convention on Mutual Legal Assistance on Criminal Matters and Extradition.

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Presently, out of 47 Member States of AALCO, 34 States have ratified/acceded to the UN Convention against the Transnational Organized Crime. Seven Member States have signed the Convention. Twenty Seven Member States have ratified/acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Seven Member States have signed the Protocol. Many Member States are Parties to the regional conventions on trafficking. According to the available information some Member States of AALCO (Cyprus, Indonesia, Myanmar, Nepal and Thailand) have specific

legislations to combat trafficking. Other Member States have provisions in their Constitutions, Penal Codes, Employment laws, Child and Women related laws, immigration laws, Passport Act, Human Rights Act, Money Laundering Act and Prostitution Prevention and Suppression Laws to combat trafficking. A few Member States have come up with national plan of action on combating trafficking in women and children.

Fully realizing the relevance of this topic and addressing the challenges before the countries in the Asian-African region, this workshop would be beneficial to our Member States in terms of sharing of experiences and extending mutual cooperation in these matters.

With these words, I once again welcome all the participants to this important Workshop and I am confident that some concrete suggestions would emerge out from this workshop.

Thank you all for giving a patient hearing.