



ADDRESS BY
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AALCO AT THE PANEL DISCUSSION MEETING ON THE TOPIC
“ASIAN-AFRICAN STATES: CHALLENGES IN INTERNATIONAL
LAW IN THE 21ST CENTURY”
(AALCO SECRETARIAT, NEW DELHI,
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Excellencies, Distinguished Guests, Ladies and Gentlemen,

At the outset, on behalf of the Asian-African Legal Consultative Organization and my own behalf, it is a great privilege and honour for me to welcome all the Eminent Panelists, Excellencies, Distinguished participants to this Panel Discussion on a very important and timely topic, “Asian-African States: Challenges in International Law in the 21st Century” in commemoration with the Organization’s 54th Constitution day celebrations.

Before I would start my presentation, it is my pleasant duty to thank the Eminent Panelists, His Excellency. Eng. John W.H. Kijazi, the High Commissioner of the United Republic of Tanzania to India; His Excellency Mr. Zhang Yan, Ambassador of the People’s Republic of China to India; His Excellency Dato’ Tan Seng Sung, the High Commissioner of Malaysia to India and the Chair of the ASEAN Group in India; His Excellency Sheikh Humaid Ali Sultan Al-Manni, Ambassador of the Sultanate of Oman in India; His Excellency Mr. Narinder Singh, Joint Secretary and Legal Adviser, Legal and Treaties Division, Ministry of External Affairs, Government of India and His Excellency

Mr. Gudmundur Eiriksson, Ambassador of Iceland to India for giving time to AALCO activities, despite their hectic schedule of events.

Let me begin with a brief introduction of AALCO and its predominant role in advancing the Asian-African perspectives on international law in its methodology of work.

Excellencies,

The Asian-African Legal Consultative Organization is in a way unique Organization, as perhaps, is the only legal consultative body of its kind in the family of inter-governmental Organizations functioning in the Asian-African region. It has a rich history of 54 years behind it in addressing the international law concerns of Asian-African States and promoting the realization of Afro-Asian views in the progressive development and codification of international law. This remains the primary objective of AALCO.

After five decades of its existence, AALCO has organised a systematic and consistent analysis of the items on the agenda of the Sixth Committee of the United Nations General Assembly, International Law Commission (ILC) and other International law making fora, from the Asian-African point of view. Keeping in view its growing stature and significant contribution made by the AALCO, the UN General Assembly accorded the Permanent Observer status to the Organization in 1980.

Presently, the AALCO's membership comprises of 47 States of Asia and Africa and nearly all important countries of the two continents are members of AALCO. As we are moving in to our Fiftieth Annual Session to be held in Sri Lanka in 2011, many earnest steps are in place to expand the membership base of the Organization in both the continents. The Annual Session is the highest decision making body as far as

organizational and substantive issues are concerned and currently, it has 16 substantive agenda items covering most of the crucial international law topics as referred by the Member States.

Excellencies,

Now, allow me to proceed to my presentation on the today's theme the real challenges before the Asian-African States in the 21st century in international law matters.

It is important to mention that AALCO, as a forum of solidarity of developing countries, provided an active platform for many of the discussions on issues of international law which led to the emergence of alternative views on many issues of international law. A survey of the AALCO's work on the substantive topics of international law over the last 54 years would be too exhaustive and therefore, I would be selective and focused in discussing some of these areas.

As regards the law of the sea topic, I would like to mention that the concept of Exclusive Economic Zone (EEZ) was initially introduced in the deliberations of AALCO which contemplated that each Coastal State shall have rights in and exclusive jurisdiction over resources, both living and non-living, in a belt of the sea extending up to 200 nautical miles measured from its coast. In addition to it, issues such as archipelagic States, international straits, rights and interests of landlocked States, fisheries, marine pollution and international sea bed authority were some of the areas which AALCO had real contributions in the past.

On the status and treatment of refugees, AALCO adopted a set of principles known as the Bangkok Principles on the treatment of refugees in 1966 which led to the UN Declaration on Territorial Asylum of 1967.

These principles were later revised in 2001 to cover the displaced persons and the refugees other than political refugees.

AALCO has played a pre-eminent role in helping Asian-African delegations to arrive at a common position on certain key issues and facilitated final adoption of the UN Convention on the Law of Treaties, 1969.

In regard to settlement of disputes in commercial transactions, AALCO launched its own *'integrated scheme for settlement of disputes and economic and commercial transactions'*. As a result, five Regional Arbitration Centres were established under AALCO's auspices in Kuala Lumpur, Cairo, Lagos, Tehran and in Kenya (would be functioning soon) with the support of Member States to provide facilities for international commercial arbitration in their respective region.

The AALCO's future work programme and activities as envisaged are taking into account of its possible role in the 21st century. Besides consolidating the gains achieved during the last five decades, AALCO has embarked upon new initiatives so that it could meet the challenges posed in the era of globalization. The current work programme of AALCO that encompasses 16 topics reflects the wide range of international legal issues that are under consideration of this Organization.

Excellencies,

Today's urgent global issues which include, conflicts about access to natural resources; the consequences of climate change; piracy; the ongoing threat of nuclear arms; structural worldwide poverty; human rights issues; armed conflict; terrorism and so on needs serious attention.

Considering the time, pragmatically it is difficult to touch upon all the challenges of international law in the 21st century. Therefore, I would limit myself to touch upon some of the imminent issues of international law during the course of my presentation.

Rule of Law at National and International Levels: The advancement of rule of law has been considered as an essential tool for the promotion of sustained economic growth, sustainable development, poverty and hunger eradication, protection of all human rights and fundamental freedoms as stated in the UN General Assembly Resolutions, namely, 61/39 and 62/70. The Resolutions also reaffirmed its commitment to the purposes and principles of the Charter of the United Nations and international law that are considered as most indispensable form of promoting peaceful, prosperous and just world order.

The topic has utmost significance in the contemporary world, especially in relation to reinforcing democracy, human rights, foundations of justice, equality of all before the law, respect for State sovereignty, the prohibition of the use of force, and finally safeguarding the principle of balance between rights and obligations in accordance with the principles of international law. However, its importance is much more prominent at national level, wherein the United Nations has a role in assisting the member States in capacity-building in upholding the criminal justice system and Constitution.

The substantial inputs on this issue by countries of Asian-African region would be helpful in defining the outstanding issues. Moreover, by sharing the national experiences on different aspects of establishing rule of law, countries would be making a substantive measure to assist other countries, and also having effectively participated in improving this branch of international law.

Given the great diversity among legal systems in the Asian-African countries, it is also important to understand how the Rule of Law is theorized and implemented, and the role of law and the legal systems with respect to economic growth, political reform and democratization, the protection of human rights and geo-political stability. It also needs serious examination as to what extent the principles of Rule of Law, as understood within municipal sphere, stand eroded, modified or replaced by the International laws, treaties, conventions and declarations.

WTO and Asian-African States: Trade is undoubtedly the most effective medium of globalization today. It is also an important source of growth for Asian and African countries. When the WTO came into existence, it was felt that it took shape mainly catering for the concerns of the developed world and subsequently it had reoriented itself to the developmental concerns in the form of Doha Development Round due to the pressure exerted by the developing countries.

The issues which are of real concern to the Asian-African countries under the WTO are: tackling agricultural subsidies; Non-Agricultural Market Access (NAMA); Trade in Services; Trade Related Aspects of Intellectual Property Rights (TRIPs) implementation and public health safeguards; Sanitary and phyto-sanitary measures (SPS); Technical Barriers to Trade (TBT) and the issues relating to Dispute Settlement mechanism.

The rules of WTO also poses challenges to the capabilities and technical expertise of developing countries, both for negotiating agreements and for understanding and implementing them.

Protection of Traditional Knowledge and other related issues:

Another issue of paramount importance to the developing countries is the lack of protection for traditional knowledge, expressions of folklore and genetic resources held by local communities and indigenous people. The fact that, currently, there is no effective protection system for such knowledge has led to cases of bio-piracy and other injustices caused to the owners of such precious knowledge. The developing countries strongly feel that there is a need for effective measures to put in place for the protection of such knowledge as well as for the equitable sharing of the benefits arising out of the use of such knowledge.

Excellencies,

These are some of the areas which need to be given attention in the future. Also, it is very important that we practitioners, diplomats, and scholars should remember that there are other many areas of international law which needs profoundest importance such as: legal aspects of nuclear proliferation and monitoring, cyber laws, legal empowerment of the poor, and of the prevention and control of epidemics such as avian influenza and severe acute respiratory syndrome (SARS). These areas are of such vital importance to the Asian and African countries in the 21st Century.

Keeping in pace with the changes which we are undergoing at the global level, international law has to adapt itself to such circumstances. This would happen only when international lawyers are fully conscious and understand the real conditions of States and the public demand of the developing countries, so that they can genuinely help to ensure equal opportunities for all and mutual benefits for all the States.

Excellencies,

I have no doubt that it is the time for AALCO to critically look at its work, keeping in view the tremendous changes happening at global level on various international law issues and reflect upon it in a right way in order to assist the Member States on the above said issues.

Towards realization of that objective, it is imperative to strengthen the Organization in all its aspects. To enhance AALCO's profile and promote its role, the Member States had adopted the historic "*Putrajaya Declaration on Revitalizing and Strengthening the Asian-African Legal Consultative Organization*". By virtue of this Declaration, the Member States had *inter alia*, reaffirmed their commitment to the Organization and recognized its significant contribution towards strengthening Asian-African solidarity, particularly in the progressive development and codification of international law. They had envisioned revitalizing and strengthening the AALCO so as to ensure that it remains the "main centre for harmonizing the actions of Asian-African States in international legal matters".

Excellencies,

The realization of this vision requires that the AALCO should re-fashion itself to serve as a think-tank for the Afro-Asian regions. Towards that end, *inter alia*, we are considering in constituting an AALCO Eminent Persons Group drawn from Member Governments, International Organizations, and academia to address key issues of concern to the AALCO Member States. Such a group would be facilitative in redefining the role of our Organization in the fast changing global power matrix.

The Secretariat is involved in the capacity building training programmes on new themes of international law and thereby developing the expertise of Member States officials on the relevant areas.

Further, to nurture young international lawyers in the Asian-African region, the Secretariat is in the plan of organizing Young Jurist Conference.

As you are well aware and I have no hesitation to stress it once again here that presently, the Secretariat functions under severe constraints of human and financial resources. Therefore, it is important to strengthen the infrastructure and other facilities of the Secretariat. Towards that, I have proposed to establish a sub-committee to look into right sizing of the staff and their salary structure in the AALCO Secretariat.

In this regard, I urge the Member Governments who are present here to support the activities of AALCO by all means in order to serve the Member States in a very efficient manner.

Excellencies,

With these words, I would like to once again very warmly and cordially welcome you all to this Panel Discussion and also I request you all to stay back for the reception and the dinner and grace the occasion.

Thank you all for your kind attention and patient hearing.