

WELCOME STATEMENT BY AMB. DR. WAFIK ZAHER KAMIL, SECRETARY GENERAL, AALCO AT THE SEMINAR ON “STRENGTHENING REFUGEE PROTECTION IN MIGRATORY MOVEMENTS” ORGANISED JOINTLY BY AALCO AND UNHCR AT NEW DELHI, ON 17 – 18 SEPTEMBER, 2003.

Excellencies, distinguished experts, ladies and gentlemen, good morning to every one.

On behalf of the Asian-African Legal Consultative Organization (AALCO) as well as on my own behalf it is an honour for me to extend a very warm welcome to all of you. I would like, in particular, to thank Mrs. Deepa Wadhwa, () who has agreed to chair this morning’s session. I would also like to thank the experts, His excellency Dr. Iskandar Ghattas, Assistant Minister of Justice, (Arab Republic of Egypt), Mr. Mwaliko, Permanent Secretary, Ministry of Home Affairs, (Kenya), Ms. Caroline J. Mchome, (Tanzania) Prof. C. Beyani, London School of Economics, Prof. M. Lama, JNU, New Delhi, Dr. Ijaz Hussein, Dean, Quaid-I-Azam University, Islamabad, (Pakistan) who have traveled long distances from their respective countries to participate in this Seminar. Special thanks goes to Mr. Lennart Kotsalainen, Chief of Mission, UNHCR, in New Delhi for having agreed to co-host this seminar with the AALCO.

Madam chairperson, Resolution 41/3 adopted at the 41st session of AALCO in Abuja (Nigeria) in July 2002, inter alia, welcomed “the signing of the Memorandum of Understanding between the Asian African Legal Consultative Organization and the Office of the United nations High Commissioner for Refugees on 23rd may 2002 which formalized the long established relationship of the two organizations, and “directed the Secretariat to explore the possibility of convening a workshop in cooperation with UNHCR for in depth consideration of related issues”. In pursuance to that resolution it was decided between our organizations to hold this seminar. However it could not be held earlier due to the unfortunate events of 11 September and the two subsequent wars in Afghanistan and Iraq.

I would also like to note with satisfaction that this is the first time that Arabic interpretation is being provided during an inter-sessional meeting. I hope this will encourage more Arab member States to attend the meeting and it will give due importance to Arabic which is the working language of AALCO. I would also like to thank the three interpreters who have come from Egypt.

Allow me to give a brief background on AALCO’s involvement with refugee matters and the cooperation with UNHCR in dealing with those matters. At the AALCO’s Sixth Session held in Cairo in 1964, upon a reference made by the Government of Arab Republic of Egypt an item “Rights of Refugees” was placed on the Agenda of that session. Among the dignitaries who addressed the Meeting during the consideration of this item was the United Nations Deputy High Commissioner for

Refugees. It was a good beginning and the first positive step in the journey of our cooperation.

Since then AALCO started to seek technical and expert assistance from UNHCR for indepth consideration of the refugee issues. In less than three years there was considerable progress in the deliberations and the outcome was the adoption of AALCO's historic document "Bangkok Principles on Status and Treatment of Refugees" at its Eighth Session held in Bangkok in 1966. These Principles were declaratory in nature but had salutary effect in developing the norms and practices concerning refugee matters in the Asian and African regions. It was the first landmark in the long history of cooperation between AALCO and the UNHCR.

Madam chairperson, in the next phase of our cooperation, the preparation of Model Legislation on the Status and Treatment of Refugees, establishment of safety zones were among the issues on which the two Organizations worked together. We had the privilege of high-level participation of UNHCR in our annual sessions, which enriched our deliberations immensely.

Madam chairperson, AALCO and UNHCR organized jointly a workshop on "International Refugee and Humanitarian Law" in New Delhi in October 1991, to commemorate the 25 years of relationship between the two Organizations. UNHCR helped in preparing excellent background papers as well as deputed senior officials to assist the deliberations at the Workshop.

At the AALCO's 35th Session held in Manila in 1996, a proposal put forward by the Representative of the UNHCR to commemorate the 30th Anniversary of AALCO's Bangkok Principles was welcomed and accepted. It was felt that it would be an opportune time to review these principles in the light of state practices and legal developments related to refugee matters. This exercise began with a special meeting in Manila in December 1996 followed by an Expert Meeting in Tehran in 1998 and finally the open ended working group meeting held in February 2001 and culminated with the adoption of a Revised Text at AALCO's 40th Session held in New Delhi in 2001, which was considered as a historic achievement of AALCO. All this was possible due to the financial and technical assistance offered by UNHCR to convene expert meetings and active involvement in the deliberations.

Following AALCO's established practice, it was felt that it would be ideal to formalize AALCO's long established cooperation with the UNHCR by concluding a Memorandum of Understanding. I made this proposal to H.E.Ruud Lubbers, the United Nations High Commissioner for Refugees. His Excellency readily agreed and visited New Delhi on 23rd May 2002, to put his signature on such an MOU. The MOU placed cooperative arrangements between the two Organizations on a firm footing. It provides for exchange of documents, consultations, mutual representation in the meetings and holding of joint meetings by the two Organizations. It is against this background that today's seminar is being organized.

The phenomenon of globalization, Madam Chairperson, involving the rapid movement of capital, goods and services across the world, together with growth in communication and transport technologies, has contributed to the modern migration movements. Thus the process of globalization has, in fact, accelerated the migration movement, the root causes for which largely lie in the growing disparities in the levels of prosperity and human security between different States and regions. As indicated by a survey, the total number of international migrants estimated at about 75 million persons in 1965 has doubled to 150 million persons by the end of the year 2000.

Such large scale movement of persons is obviously accompanied by regulatory concerns for States. The basic premise on which State responses to such migratory movements could be appreciated is that it is the sovereign right of States to determine which non-nationals may be admitted to and remain on their territories, subject to the limitations of national and international law.

However, despite regulatory concerns, there is a need to recognize the economic and social value of such migratory movements. States generally acknowledge the positive value of international migration. Much of the international migration currently taking place, which we term as “regular” migration, is largely uncontroversial. Leisure, business and student travel, as well as the movement of skilled and contracted workers, all fall within this category. However, what is of alarm and concern to States is the “irregular” migratory movements, especially involving people who come from unfamiliar cultures and who bring little financial or social capital with them.

Having said that, let us move on to the migration – refugee law interface. During the close interaction AALCO had with the UNHCR in the last few years, I have observed that one recurring theme in our discussions - was that a distinction should be maintained as between refugees and migrants. This distinction was central to the issue of preserving and strengthening the institution of asylum in the context of refugee protection.

So, today we have to examine the distinction between migrants and refugees. Refugees are not migrants in the lay sense of the word. Refugees flee through compulsion due to well-founded fear of persecution, but migrants move as a matter of choice for better economic benefits. However, Refugees could be part of a broad mixed flow of both forced and voluntary movements and they may even resort to migrant smugglers as one way to leave their country. At the same time, in instances where no legal migration options are available, persons who are not refugees but wish to migrate may seek to enter countries of their choice through the asylum channel. Thus there are linkages between migrant and refugee movements. This interface is continued in States’ response to migration control and refugee protection.

While there is no international instrument for addressing and managing broader migratory movements comparable to that for refugees, each State has adopted measures to manage migration. These measures include: the imposition of visa requirements, carrier liabilities, and interception beyond the border, which, while addressing irregular migration, also result in limiting the ability of refugees to seek asylum. States have also

sought to develop procedures to prevent their asylum systems from being misused for immigration purposes.

Thus there is a tension between the right of people to seek and enjoy asylum in another country and the right of States to regulate the arrival, admission and settlement of foreign nationals. Eliminating or at least mitigating this evident tension is a primary challenge for intergovernmental organizations like the UNHCR and the International Organization for Migration (IOM). Thus it is relevant to mention that the rule of law could ease the tension between the conflicting interests of refugees and States. In this context the application of the principle of non-refoulement could be one good example.

Keeping in view the complex interconnection between refugee protection and migratory movements, the topics that are going to be covered in this seminar, though not exhaustive, attempt to encompass the substantial issues involved in the problem. It is worth mentioning that both the problems of refugee protection and the regulation of migratory movements are of much concern to the Asian and African regions as many countries in these regions are strife-torn and also economically underdeveloped. Thus the discussion on the topic “Migration and Refugee Protection in the Asian African Context: Policy, law & Practice” may help to come to terms with the problem in the region and may also provide background for the formulation of future programme to deal with the issue in Asian African regions.

Similarly, discussion on the second topic “Strengthening Asylum Systems: Challenges and Legal Responses” is expected to throw light on various constraints in strengthening the asylum systems and the role of legal mechanisms in addressing such issues.

National security concerns have attained prominence in recent times particularly in the context of combating terrorism. Thus the initiatives undertaken at the international and national levels are often felt to be of detrimental to the refugee and human rights concerns. Therefore the situation warrants balancing mechanisms for the purpose of refugee protection while addressing national security concerns. Thus the discussion on the topic ‘Asylum and national Security concerns in a Refugee Context’ would help us in this direction for future initiatives.

At this stage, I will not go into details of these issues as we have competent speakers who will elaborately discuss the migrant - refugee interface and the challenges it poses for the protection of refugees.

It needs no special emphasis, that today’s topic is of particular relevance for States of Asia and Africa. The AALCO serves as a de-politicized and deliberative body wherein Member States could openly engage in an exchange of views and discuss their national experience on the topic.

Before I close, I would like to express my gratitude to the UNHCR for financial assistance, which facilitated the participation of experts from abroad. More specifically

the UNHCR office in New Delhi which deserves special thanks for the success of the seminar. I will be failing in my duty if I do not put on record the excellent work and effort put in by Mr.Kotsalainen, and his colleagues in the UNHCR office in New Delhi who deserve special thanks for all that they have done for the success of the Seminar. Madam chairperson, I am sure, we will have very useful discussions during this Seminar and its success would provide incentive to organize similar meetings in the future and as a way forward in strengthening the cooperation between the AALCO and UNHCR.