

# **ROLE OF AALCO IN THE DEVELOPMENT OF INTERNATIONAL LAW: RECENT CONTRIBUTIONS\***

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## **I. INTRODUCTION**

In presenting the contributions of AALCO to the development of International Law, I have structured my presentation along the following major points:

- a. Sources of International Law and the role of international organizations in the development of international law
- b. The origin of Asian-African cooperation and the establishment of AALCO
- c. The mandates and the functions of AALCO
- d. Key recent contributions of AALCO to the progressive development of international law
- e. Finally, before wrapping up, I will talk about internship opportunities available to law students at the Headquarters of AALCO.

## **II. SOURCES OF INTERNATIONAL LAW AND THE ROLE OF INTERNATIONAL ORGANIZATIONS IN THE DEVELOPMENT OF INTERNATIONAL LAW**

The sources of international law, have been codified in Article 38(1) of the Statute of International Court of Justice. International treaties and custom are termed as primary law making sources. So, Treaties are clearly a source of law and obligation for the parties to the treaty as well as the "international custom", is evidence of a general practice accepted as law. Custom, in a legal sense means something that is more than just habit and is obeyed because it brings with it a sense of obligation in the words of Article 38(1)(b), we must examine whether the custom constitutes a general practice accepted by law.

For that there are two elements:(a) state practice, which must be widespread, extensive and virtually uniform and (b) *opinio juris*, which means that the specific state must be acting out of a sense of legal obligation with an intention of conformity to the rule of law.

Evidence of custom can naturally be discerned through multifarious means such as through statements made by diplomats, Letters, acts of state legislation directions to counsels and the opinions of Law Officers.

### ***A. The Role of International Organizations in the development of International Law***

International Organizations, such as AALCO, can be said to perform various functions in international law making. As stated by Mr. Stephen Mathias, the first as a "stage", second as an "actor" and third as "spectator". As I will explain over the course of my lecture, AALCO through the course of its various activities has played all these roles.

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International organizations that are made up of their respective Member States, facilitate a consultative function where states meet to exchange ideas and agree on various issues of legal importance. The statements made at such forum certainly constitute evidence of state practice.

As the International Law Commission has noted, it is important to distinguish between state practice within the framework of the International organization and the practice of international organization itself when attempting to ascertain the evolution of custom. Resolutions adopted by International Organizations may not necessarily be reflective of the views of all Member Nations of the forum.

Of course, this concern is largely negated when considering resolutions passed by AALCO as all resolutions are passed by consensus. While the possibility of omission for the sake of consensus may arise in certain cases, by and large, we can consider these resolutions as reflective of the views of all Member States.

Draft Conclusion 12(2) of the 4th Report of the ILC Draft Conclusions on the topic of Identification of Customary International Law acknowledges that “*a resolution adopted by an international organization or at an intergovernmental conference may provide evidence for determining the existence and content of a rule of customary international law.*” Draft Conclusion 4(2) provides that “*in certain cases, the practice of international organizations also contributes to the formation, expression, or creation, of rules of customary international law.*”

In summation, therefore, AALCO does contribute to the development of international law in three ways:

*Firstly:* By serving a consultative function (forum), it enables Member States to incorporate both the research done by the Secretariat and the views of other Member States, as they embark on the negotiation of law-making treaties.

*Secondly:* The statements made by the Member states in forums such as the Annual Session of the Organization are indicative of customary international law (State Practice/customs).

In this context, it should be noted that in order to put into effect their mandate, International Organizations (IOs) like AALCO use a wide variety of instruments and various forms of decision making, varying widely in their function and normative status. Resolutions are one prominent example, while other forms comprise decisions, recommendations, declarations, regulations, directives, standards or guidelines.

However, an important indication, the nomenclature accorded to an act of an IO like AALCO is often not determinative of its legal status as binding or non-binding. Instead, the instruments on the authority of which the act has been adopted needs to be analyzed, as well as its actual contents. Hence an act named ‘resolution’ is not necessarily binding. Additionally, even within an otherwise binding resolution, there may be parts of a merely recommendatory or declaratory character. This shows that the effect of an international organization needs to be addressed according to various factors, its name just being one of many.

*Finally*, the AALCO Secretariat, in an advisory capacity, has conducted many workshops, training programmes and seminars and prepared many research briefs and Special Studies for the Member States which must also be considered.

These studies have often been commissioned by the Member States themselves and have served as a ready point of reference when entering into dialogue or negotiation between themselves or with the rest of the international community. They are submitted to the Member States as well as to the ILC.

### **III. THE ORIGIN OF ASIAN-AFRICAN COOPERATION AND THE ESTABLISHMENT OF AALCO**

Founded on 15 November 1956 after the historic Bandung Summit of Asian-African States, the year 2018 marks the 62<sup>nd</sup> anniversary of the Asian African Legal Consultative Organization (AALCO). This year the Organization is prepared to hold its 57<sup>th</sup> Annual Session in Tokyo, Japan. Such legacy and heritage is maintained only by very few international organizations. Forty-seven countries comprising almost all the major States from Asia and Africa are presently the Members of the Organization.

In 1955, 30 nations from Asia and Africa, most of them newly independent from colonial rule, seeking to forge their own path, met at the historic city of Bandung in Indonesia in an unprecedented exhibition of solidarity, kinship and cooperation— what came to be later known as “Bandung Spirit”.

The Conference gave a unique message to the world—whatever may be the differences in political, economic or legal systems, the States of Asian-African region were inseparably linked together by an Asian-African identity. The Bandung Conference of 1955 had a profound effect on how Asian-African States saw the international legal order as well. Established a year after the Bandung Conference, the Asian-African Legal Consultative Organization (AALCO) was born in 1956, the organization that I serve, is considered to be a tangible outcome of this Conference.

Founded by seven Asian nations namely, Burma (now Myanmar), Ceylon (now Sri Lanka), India, Indonesia, Iraq, Japan and United Arab Republic (now Egypt and Syria), the Organization was earlier known as Asian Legal Consultative Committee (ALCC) during its formative years. Here, one must acknowledge the pioneering role of Pandit Jawaharlal Nehru, the first Prime Minister of India, in the organization of Bandung Conference and the formation of ALCC.

Thereafter, in order to include the participation from the continent of Africa, it was renamed to Asian-African Legal Consultative Committee (AALCC). Later, recognizing its international stature and increased relevance, the Organization was rechristened as Asian-African Legal Consultative Organization 2001. Its permanent headquarters is in New Delhi, India.

AALCO has currently 5 regional arbitration centres in Malaysia, Egypt, Nigeria, Islamic Republic of Iran and Kenya. The organization holds an observer status to the United Nations since 1980 (with our Permanent Observers based in New York and Vienna) and is the only intergovernmental organization of its kind embracing two continents of Asia and Africa - comprising almost all the major States from Asia (like India, P.R. China, Japan, I.R of Iran, Saudi Arabia etc.) and Africa (like Tanzania, Kenya, Uganda, Egypt, South Africa etc.)

AALCO has established close relations with the United Nations specialized agencies as well as other international organization and has concluded numerous Memorandum of Understanding and cooperation agreements. These include but are not limited to, ICRC, UNODC, The Hague Conference on Private International Law, UNHCR, Africa Union, International Criminal Court, International Law Commission, UNCITRAL and more.

The main objective behind the establishment of AALCO was the creation of a regional forum to bring about closer cooperation amongst its Member States which necessarily envisaged expansion of its activities in other areas of current relevance to meet the needs of its membership. Its work programme has also been suitably oriented to meet the needs of an expanding membership embracing the two continents of Asia and Africa. The growth in its membership was slow until the seventies when the Organization had begun to prove its utility as a forum for consultation and cooperation on some of the major issues before the United Nations and it had expanded its activities to include economic cooperation and trade law.

Notwithstanding the small membership of the Organization during the initial period, it gathered momentum in its work of formulation of legal principles and rendering advisory opinions to Member Governments which almost immediately attracted the attention of the international community. The Organization's activities as envisaged in its Statutes were primarily directed towards the progressive development of international law, consideration of legal problems referred to it by Member Governments, and follow up of the work of the International Law Commission and the United Nations.

Although the Organization is essentially a regional Organization committed to the service of its Member States it has never followed a policy of regionalism in isolation. This has been the unique feature in the growth and activities of the Organization. The Organization has welcomed the participation of observer delegations representing Governments and international organizations from all over the world.

The participation of other regions in the deliberations of the Organization has proved to be beneficial not only in drawing upon their expertise and experience but also in projecting the interest of the Asian-African region within the broad framework of the international community as a whole.

From time to time the Organization also conducts training programmes, workshops and conferences aimed at capacity building for the Member States. AALCO Secretariat also brings out periodic publications like the "AALCO Journal of International Law", "The Yearbook of AALCO" and Special Studies, the recent ones include "Marine Biodiversity Beyond National Jurisdiction: An Asian African Perspective"; "The Legality of Israel's prolonged Occupation of Palestinian Territories and Its Colonial Practices Therein"; and "International Law in Cyberspace".

### ***A. Philosophy Behind the Establishment of AALCO***

The establishment of AALCO can be discussed in the historical Paradigms and Typologies of Views on International Law. Allow me to quote Prof. Makau Mutua's historical truths about international law on Africa which the same can also be said about Asia.

Nearly all states in Afro-Asian are creation of international law which initially treated them as 'tabula rasa' - a blank slate on which colonizers the normative home of international law, could scribble its forms of logic hierarchies, and forms of social organization. International law was used as a means of ordering and organizing the exploitation of the globe for the benefit of the North Atlantic communities.

In the premises, the modern international law (a) was inimical to Afro-Asia's interests, (b) was used to cannibalize Afro-Asia's resources and people, and (c) was used to justify the "management" of Afro-Asia as indeed all of the Third World for the hegemonic interests of North Atlantic states. International law was a tool used to justify the exploitation of resources from the region for the benefit of others.

So the modern Afro-Asia region faces three historical traumas of slavery and colonialism, which international law recognized and or invented, and the trauma of the Cold War, in which the region was plundered by both the East and the West and used as a pawn in proxy wars of supremacy.

It was the Afro-Asian demand of more respect and equity in global affairs and contributing to the progressive development of international law that led to the formation of AALCO.

#### **IV. THE MANDATES AND THE FUNCTIONS OF THE ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION (AALCO)**

AALCO's evolution in terms of structure and functions, work programme and membership etc., can reflect the above paths. AALCO primarily is a knowledge based Intergovernmental Organization. In accordance with its constituent instrument, the Statutes of AALCO, the functions and purposes of the Organization are as follows:

(a) to serve as an advisory body to its Member States in the field of international law and as a forum for Asian-African cooperation in legal matters of common concern;

(b) to consider and deliberate on issues related to international law that may be referred to the Organization by the Member States and to make such recommendations to governments as deemed necessary;

(c) to exchange views, experiences and information on matters of common concern having legal implications and to make recommendations thereto if deemed necessary.

(d) to communicate, with the consent of the governments of the Member States, the views of the Organization on matters of international law referred to it, to the United Nations, other institutions and international organizations;

(e) to examine subjects that are under consideration of the International Law Commission and to forward the views of the Organization to the Commission; to consider the reports of the Commission and to make recommendations thereon, wherever necessary, to the Member States; and

(f) to undertake, with the consent of/or at the request of Member States, such activities as may be deemed appropriate for the fulfillment of the functions and purposes of the Organization.

The current work-programme of the Organization contains important issues of concern for the Asian-African States ranging from:

(a) The Work of International Law Commission (current topics) such as:

- (i) Immunity of State officials from Foreign Criminal Jurisdiction,
  - (ii) Protection of the Atmosphere;
  - (iii) Crimes against Humanity
  - (iv) Protection of the Environment in relation to Armed Conflicts;
  - (v) Provisional Application of Treaties;
  - (vi) Peremptory norms of general international law (Jus cogens)
- (b) Law of the Sea and Maritime Law,
  - (c) Refugees and Migrants,
  - (d) the Question of Palestine,
  - (e) Expressions of Folklore and its International Protection,
  - (f) International Criminal Court (Recent Developments),
  - (g) Environment and Sustainable Development
  - (h) International Law in Cyberspace,
  - (i) WTO as an Agreement and a Code of Conduct for World Trade:
  - (j) Violent Extremism and Terrorism (Legal Aspects), and
  - (k) Human Rights in Islam.

## **V. CONTRIBUTIONS OF AALCO TO THE PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW**

As mentioned earlier, AALCO will celebrate its sixty second anniversary this year. As envisaged by its founding fathers, it has made tremendous contributions in the codification and progressive development of many important topics of international law. I would now like to provide a brief summary of AALCO's key contributions including our recent engagements.

The organization has fulfilled this task by preparation of research studies on a variety of topics, and furthering participation in the law making process. AALCO has a secondary, advisory role and is statutorily bound to serve its Member States by providing legal assistance, in addition to providing a platform for nations to collectively raise their views in international fora. Pursuant to that, the organization is committed to extend to its Member States legal assistance in drafting model legislations and recommending draft principles and conventions.

Some of the important topics that AALCO has been deliberating are as follows:

### ***A. The Work of the International Law Commission***

The International Law Commission (ILC) was established by the United Nations General Assembly in 1948 for the "promotion of the progressive development of international law and its codification". This year the ILC celebrates its 70<sup>th</sup> Anniversary on the theme '70 Years of the ILC-Drawing a Balance for the Future'. The Asian-African States have projected their viewpoints in the work of the ILC. The Work of the Commission has been facilitated first, by the presence of a fair number of Asian and African States, second, practice adopted by the Commission in seeking comments of all governments on the drafts procured by them, and third, by having official relations with other regional bodies like AALCO working in the field of international law.

The International Law Commission (ILC) and AALCO have shared a long-standing and mutually beneficial relationship such as one of the functions designated to AALCO under

its Statutes is to study the subjects which are under the consideration of the ILC and thereafter forward the views of its Member States to the Commission. In pursuance of this mandate, AALCO Secretariat prepares an annual brief on the latest work undertaken by the ILC and the viewpoints of AALCO's Member States on this work as stated in our Annual Session and UN General Assembly. It has also become customary for AALCO and the ILC to be represented during each other's sessions.

Further, due to the immense importance that the topic of Customary International Law (CIL) holds for the Member States of AALCO, the Organization had established an "Informal Expert Group on Customary International Law" in 2014.

The group was envisaged to act as a technical expert group on Identification of Customary International Law, with a view to formulating responses to the work of the ILC, including that of the Special Rapporteur of the ILC on the topic. On March 2015 this Informal Expert Group adopted a set of comments on this topic and submitted it to the ILC for its consideration.

### ***B. Law of the Sea***

AALCO's contributions during the negotiations on UN Convention on the Law of the Sea (UNCLOS) are widely recognized. Not only did AALCO help prepare member countries in formulating their positions, it later became a negotiating forum and powerful bloc in UNCLOS III. Topics introduced in AALCO deliberations reflected concerns of developing countries and the views of largely landlocked Member States found their way into the final convention.

In 1971 AALCO Meeting in Colombo, most delegations, in principle, supported the right of a coastal State to claim exclusive jurisdiction over an adjacent zone for economic purposes. At this meeting, a working paper prepared by Kenya, was presented on "The Exclusive Economic Zone Concept". This concept finally found its way to the final text of UNCLOS.

Since the adoption of the UN Convention on the Law of Seas in 1982 the AALCO's Work Programme was oriented towards assisting Member States in their bid towards becoming functioning signatories to UNCLOS. With the entry into force of the UNCLOS in 1994, institutions envisaged by the legal regime began taking shape. The AALCO Secretariat prepared studies monitoring these developments.

Further, the Secretariat documents for AALCO's Annual Sessions continuously reported on the progress of work in the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea (ITLOS), the Commission on the Limits of the Continental Shelf (CLCS), the Meeting of States Parties to the UNCLOS and other related developments. The agenda was discussed during the Fifty-Fourth Annual Session of AALCO held from April 13-17, 2015, in Beijing, People's Republic of China.

In consonance with United Nations activities on the law of sea, AALCO has provided impetus to ongoing contemporary works in law of the sea. It has successfully deliberated at the *UMT- AALCO Legal Expert Meeting On Law Of The Sea – "Marine Biodiversity Within And Beyond National Jurisdiction: Legal Issues And Challenges* on August 24, 2015, held in Malaysia which added more clarity to and promoted a more concrete understanding of key issues among Member States.

In pursuance of the mandate received from the resolution adopted on the law of the sea, at the Fifty-Fifth Annual Session held in 2016, the Secretariat prepared a Special Study entitled, “*Marine Biodiversity beyond National Jurisdiction: An Asian-African Perspective*”.

While the UNCLOS does provide a comprehensive coverage to the law of the seas, it was primarily an international treaty instrument for demarcating maritime boundaries and regulating jurisdictional issues between States. The framework for protecting marine biological diversity, given its specialized focus was not given exclusive focus in its text.

With coastal states expanding their jurisdiction to wider domains with the emergence of concepts like Exclusive Economic Zones (EEZs), depletion of inshore resources and increase in interlinkages of trade and commerce all of which were the direct fallout of human activity, marine resources started facing an existential threat.

An exclusive convention for protecting marine biodiversity that would complement the UNCLOS was thus felt necessary. Recognizing this issue the United Nations is currently working to adopt an exclusive convention on Marine Biodiversity Beyond National Jurisdiction. AALCO, at its Secretariat closely follows developments at the United Nations and other forums in this regard.

### *C. Status and Treatment of Refugees*

AALCO has been concerned with the issues relating to the Status and Treatment of Refugees ever since this topic was introduced in its agenda in 1964 at the behest of Arab Republic of Egypt. While working in pursuance of its mandate, AALCO has collaborated with the Office of the United Nations High Commissioner for Refugees (UNHCR), both formally as well as informally. This cooperation and mutual assistance was formalized by the Signing of the Memorandum of Understanding (MOU) between the two Organizations on May 23, 2002. The MOU provides for the undertaking of joint studies and envisages holding of seminars and workshops on topics of mutual interest and concern.

In this regard, among the achievements of AALCO which contributed to the progressive development of international law, include the “Principles Concerning the Treatment of Refugees” in 1966 at its Eighth Annual Session, which are commonly known as ‘Bangkok Principles’.

Further study improved upon these principles by adopting two addenda. The first, which was adopted in 1970 at AALCO’s Eleventh Session held in Accra, contained an elaboration of the ‘right to return’ of any person who, because of foreign domination, external aggression or occupation, has left his habitual place of residence.

Furthermore, in 1987 at the Twenty-Sixth Session held in Bangkok, AALCO had adopted ‘Burden Sharing Principles’ as an addendum to the Bangkok Principles of 1966.

The AALCO framework of ‘burden sharing’ is expected to complement with the international refugee treaty regime with a broader participative framework involving the international community along with emphasizing the role of non-state actors in the process.

While AALCO is regarded as one of the initial forums that took up ‘Burden Sharing Principle’ in International Refugee Law, the UNHCR was mandated by the New York

Declaration to develop and initiate a multi-stakeholder approach that protects and promotes the rights of refugees as enshrined in International Law.

The Comprehensive Refugee Response Framework (CRRF) annexed in the New York Declaration of September 19, 2016 is a step in the effort to develop a Global Pact on Refugees by 2018. It is pertinent to mention that the Comprehensive Refugee Response Framework (CRRF) set out in the New York Declaration of September 19, 2016 gives high priority to the principle of ‘burden sharing’. It is hoped that these initial efforts of AALCO laying the foundations of the concept of ‘burden sharing’ will now extend its reach globally by way of the Global Pact on Refugees, 2018.

In fact, it would be no overestimation to state that the international focus on ‘burden sharing’ owes a great deal to the fundamental groundwork of AALCO with its emphasis on equity and fair play in the regime of refugee protection. The concerns of Asia and Africa, two principal continents involved in refugee protectionism within the broader spectrum of economic development and resource mobilization was championed by AALCO at the international level.

Apart from the adoption of the 2001 Revised text of the Bangkok Principles, two other important initiatives of AALCO related to refugee protection need to be mentioned here; the “Concept of Establishment of Safety Zones for Internally Displaced persons” and the preparation of the “Model Legislation on Refugees”.

As regards the concept of safety zone (an area within a Country to which Internally Displaced Persons (IDPs) and prospective refugees can flee to secure assistance and protection), AALCO had adopted “A Framework for the Establishment of a Safety Zone for Displaced Persons in their Country of Origin” in 1995. It incorporates some twenty principles that provide which are aimed at establishment of safety zone; the conditions for establishment; the supervision and management of the zone; the duties of the Government and of the conflicting parties involved; and the rights and duties of the displaced persons.

Besides, the AALCO Secretariat was mandated by the Thirty-First Session that took place at Islamabad, Pakistan in 1992, to prepare a draft model legislation on refugees to assist Member States in enacting national laws on refugees. Accordingly, the Secretariat had submitted “A Model Legislation on the Status and Treatment of Refugees” in the Thirty-Fourth Annual Session held at Doha in 1995. The draft emphasized on the need to provide for the rights and duties of refugees; rules for the determination of refugee status; mechanisms to address the refugee exodus etc.

It is also pertinent here to recall the special study that was undertaken by AALCO along with UNHCR on “The Problem of Statelessness: An Overview from the African Asian and Middle Eastern Perspective”, which was released during the formers’ Forty-Sixth Annual Session that took place at Cape Town, Republic of South Africa in 2007.

Most recently, at the Fifty-Sixth Annual Session held in Nairobi, Kenya, in May 2017 through its resolution (AALCO/RES/56/S3) on the topic “The Status and Treatment of Refugees” the Secretariat was mandated “to explore the possibility of organizing a joint seminar or workshop in collaboration with UNHCR, Member States and other relevant organizations or institutions”.

In compliance with this mandate, on April 18-19, 2018 the Secretariat of AALCO jointly with the UNHCR, will hold an International Seminar on “Responding to Large Scale Refugee Movements”.

The concerns of Asia and Africa, two principal continents involved in refugee protectionism within the broader spectrum of economic development and resource mobilization was championed by AALCO at the international level.

#### ***D. Legal Protection of Migrant Workers***

The item entitled “Legal Protection of Migrant Workers” was included on the agenda of AALCO at the reference of the Government of Philippines during AALCO’s Thirty-Fifth Annual Session held at Manila in 1996.

Ever since, it has been a subject of intense deliberations at various Annual Sessions of AALCO and occasionally in special meetings. The resolution adopted at the Thirty-Sixth Annual Session at Tehran in 1997 directed the AALCO Secretariat to study the utility of drafting a Model Legislation on the legal protection of migrant workers within the framework of the *1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* [the ICMW, 1990], international labor Conventions and Recommendations along with the relevant resolutions of the UN General Assembly.

Thereafter, at its Fortieth Session, the AALCO Secretariat was directed to explore the feasibility of drafting a “Model Agreement for Cooperation among Member States on Issues Related to Migrant Workers”. Pursuant to that mandate, a *draft Model Agreement* was prepared by the Secretariat in collaboration with the International Organization for Migration (IOM). Useful input was also received from the Office of the High Commissioner for Human Rights (OHCHR).

#### ***E. International Trade Law***

AALCO has dealt with the topic ‘WTO as a Framework Agreement and Code of Conduct for the World Trade’ from the time when the Uruguay Round negotiations were completed in 1994 and had culminated in the establishment of the World Trade Organization (WTO) in 1995. At the Thirty-Fourth Session of AALCO held at Doha, Qatar in 1995, the item “WTO as a Framework Agreement and Code of Conduct for the World Trade” was for the first time introduced in the Agenda of AALCO.

Thereafter, this item continued to remain on the agenda of the Organization and was deliberated upon during the subsequent sessions. At these sessions, the Secretariat was directed to monitor the development related to the WTO, particularly the relevant legal aspects of dispute settlement mechanism. At the Fifty-Fifth Annual Session of AALCO, in 2016, where the outcome of the 2015 Nairobi Ministerial Conference was discussed between Member States, the Secretariat was mandated ‘to organize seminars or workshops to facilitate the exchange of views by Member States on issues currently under negotiation within the WTO and capacity building programs’.

Another noteworthy work of AALCO in following WTO’s work in promoting multilateral trade includes the convening of a two-day seminar on ‘Certain Aspects of the functioning of the WTO Dispute Settlement Mechanism and other Allied Matters’ at New Delhi in 1998, in cooperation with the Government of India; and the publication of the

Special Study on ‘Special and Differential Treatment under WTO Agreements’ at the Forty-Second Session held in Seoul in 2003.

### *F. Work of UNCITRAL*

AALCO and the United Nations Commission on International Trade Law (UNCITRAL) have maintained a close and fruitful relationship, especially in the matters of international commercial arbitration (ICA), where they share a common interest. ICA was included as a priority item in the UNCITRAL’s session in 1968 on the suggestion of many Member States including the Members of AALCC (now AALCO). AALCO has been a regular observer at UNCITRAL sessions since 1970, and has been providing valuable inputs and suggestions. Similarly UNCITRAL has also participated in AALCO’s sessions, including in the deliberations of AALCO’s Trade Law Sub-Committee. Amongst the most prominent positive results produced by the interaction between the two institutions was the creation of Regional Centers for International Commercial Arbitration.

During AALCC’s Tokyo Session in 1974 regionalization of arbitration centers was suggested by the UNCITRAL’s Representative to AALCO. In his Report of March, 1972, on the “Problems concerning the application and interpretation of existing multilateral conventions on international commercial arbitration and related matters”, Mr. Ion Nestor, UNCITRAL’s Special Rapporteur for International Commercial Arbitration, stated that the establishment and improvement of, and the cooperation between arbitral institutions would lead to the progressive development of international commercial arbitration.

This would be coupled with the uniformity of arbitration laws and procedures as practical means towards the promotion and development of international commercial arbitration. That is, the main commercial arbitration centers around the world would have to encourage the reduction to one standard procedure and rules employed in arbitration practice.

AALCO continues to provide the necessary assistance and encourage active work in the regional arbitration centers formed under its patronage, many of which are within the African continent. Although in the beginning promotional activities of these Regional Arbitration Centres (RACs) were primarily carried out by AALCO, in view of the experience accumulated over the years such promotional activities are now mainly carried out by the Centres themselves.

Over the years there has been a considerable increase in the number of cases referred to these RACs. Further, the Directors of these RACs act as Appointing Authorities in such arbitrations. The Centres have been organizing international conferences, seminars and training courses in their respective regions. In addition the Directors have actively pursued Cooperation Agreements with other arbitration institutions.

AALCO envisaged the establishment of a network of Regional Centres for Arbitration functioning under the auspices of AALCO in different parts of Asia and Africa so that the flow of arbitration cases to arbitral institutions outside the Afro-Asian region could be minimized, and these institutions could act as viable alternatives to the traditional institutions in the West.

In pursuance of this, AALCO in cooperation with its Member States has so far established five institutions namely, Asian International Arbitration Centre (AIAC) (formerly

Kuala Lumpur Regional Arbitration Centre) in Malaysia in 1978, Cairo Regional Centre for International Commercial Arbitration (CRCICA) in the Arab Republic of Egypt in 1979, Lagos Regional Centre for International Commercial Arbitration (LRCSCA) in the Federal Republic of Nigeria in 1980, Tehran Regional Arbitration Centre (TRAC) in the Islamic Republic of Iran in 1997, and the Nairobi Regional Arbitration Centre in the Republic of Kenya in 2016.

International arbitration is one of the foreign investors' preferred modes of dispute settlement. The advantages of international arbitration in promoting foreign investments in a country cannot be gainsaid.

As William Park and Alexander put it *"in a world lacking any neutral supranational courts of mandatory jurisdiction to decide cases or enforce foreign judgments, arbitration bolsters cross border economic cooperation by enhancing confidence within the business community that commercial commitments will be respected"*.

AALCO Members through our Regional Arbitration Centres – must promote rule based international trade and investments and win the confidence of international investors by protecting their investments and business interests, abiding to rule based system, improve the investment regimes and incentives.

### ***G. International Criminal Law***

AALCO has been following the developments relating to the work of the ICC since its Thirty-Fifth Session at Manila (1996). The initial discussions relating to the establishment of the ICC were held at the two Special Meetings convened within the framework of the Thirty Fifth and the Thirty Sixth Annual Sessions. Thereafter, the agenda has been successively deliberated in many Annual Sessions, the last being 2017 Session held in Nairobi, Kenya. It may be noted that in 2008 a Memorandum of Understanding (MoU) was signed between AALCO and the ICC. This partly gave a thrust to the activities undertaken on this agenda item.

Apart from this, AALCO has conducted numerous Seminars and Work Shops on specific thematic concerns relating to the ICC. In 2009, a seminar on "International Criminal Court: Emerging issues and Challenges" was successfully conducted in collaboration with the Government of Japan. In 2010, prior to the Kampala Review Conference, a Round Table Meeting of Legal Experts was organized jointly by the AALCO and the Governments of Malaysia and Japan with a view to consolidate the position of the Member States. The Reports of these meetings have thereafter been published and circulated among the Member States.

Since review and analysis of the developments at the Kampala Review Conference is an important part of the work programme of AALCO, a three member delegation, led by Prof. Dr. Rahmat Mohamad, the former Secretary General participated at the Review Conference. Addressing the General debate on June 01, 2010, the Secretary General highlighted the specific concerns of the Member States of AALCO, which emerged at the Putrajaya Round Table Meeting.

He emphasized that expanding on the principles of universality, sustainability and complementarity were the major challenges that the ICC would have to face and look for solutions. The need for a clear and broadly accepted definition for 'aggression', the

relationship between peace and justice, issues on cooperation with the ICC and the principle of complementarity were the other topics that he reflected on.

On June 02, 2010, the former Secretary General hosted an informal Networking Meeting of the AALCO. During the course of this meeting, the “Report of the Round Table Meeting of Legal Experts on the Review Conference of the Rome Statute of the ICC” was also launched. The meeting was well attended and several high-level representatives of Members States, non-Member States and representatives of civil society organizations attended it. In 2011, AALCO also organized, in collaboration with the Government of Malaysia and the ICC, a two day meeting of legal experts on the topic “Rome Statute of the International Criminal Court: Issues and Challenges”.

Recently, the topic was discussed in the 56<sup>th</sup> Annual Session held in 2017 and the Member States have mandated the Secretariat to hold a training programme on international criminal law meant for prosecutors and judges of the Member States of AALCO aimed at capacity building and familiarizing them with the work of the ICC.

### ***H. Violations of International Law in Palestine***

The item “Deportation of Palestinians in Violation of International Law, particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in Occupied Territories” was taken up, at the AALCO’s Twenty-Seventh Session, held in Singapore (1988), at the initiative of the Government of the Islamic Republic of Iran. At the Thirty-Fourth Session held in Doha (1995) the Organization, *inter alia*, decided that this item be considered in conjunction with the question of the Status and Treatment of Refugees.

At subsequent Sessions, the scope of the item was enlarged, *inter alia*, to include, at the Thirty-Seventh Session, “Deportation of Palestinians and other Israeli Practices”, and the item “Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949” was placed on the agenda of the Thirty-Eighth Session in Accra (1999).

The item has since been discussed at the successive Sessions of the Organization as part of its Work Programme and the Organization has examined the violations of international law committed by the State of Israel against the Palestinian People.

The issue relating to the Statehood of Palestine once again gained international attention in 2012. The Fifty-First Annual Session of AALCO held in Abuja (2012) mandated the Secretariat, *vide* resolution RES/51/S 4, to, *inter alia*, conduct a study to examine and establish the legal requirements and principles that would determine the status of Palestine as a State, and to submit the outcome of the study for the further consideration of Member States. In compliance with this mandate, the AALCO Secretariat published a Special study entitled “The Statehood of Palestine under International law”.

In light of the grave violations of international law by the State of Israel in Gaza, the issue was once again deliberated at the Fifty-Fourth Annual Session held in Beijing, (2015) and AALCO/RES/54/S 4 was passed which changed the title of the agenda item to “Violations of International Law in Palestine and Other Occupied Territories by Israel” to “International Legal Issues related to the Question of Palestine.”

At the Fifty-Sixth Annual Session held in May 2017, a Special Study on “Legality of Prolonged Israeli Occupation of the Occupied Palestinian territory and its Colonial Practices under International Law and International Humanitarian Law” was released to the Member States. At the said session, the Secretariat has been directed to closely follow the developments in occupied territories from the perspective of relevant legal aspects.

### *I. Violent Extremism and Terrorism (Legal Aspects)*

The item entitled “International Terrorism” was placed on the agenda of AALCO early during its Fortieth Session held in New Delhi from June 20-24, 2001, upon a reference made by the Government of India. It was felt that consideration of this item at AALCO would be useful and relevant in the context of the negotiations on this topic in the Ad Hoc Committee of the United Nations on elaboration of the Comprehensive Convention on International Terrorism.

During its Forty-First Annual Session held in Abuja, Nigeria in 2002, AALCO organized a comprehensive Special Meeting on “Human Rights and Combating Terrorism” with the assistance of Office of the High Commissioner for Human Rights (OHCHR). Pursuing the matter further, the AALCO Secretariat has monitored the progress that the UN Ad Hoc Committee on elaboration of the Comprehensive Convention on International Terrorism has made till date, and as an important milestone in its endeavors published a paper in this regard entitled, “A Preliminary Study on the Concept of International Terrorism” in 2006.

The recent escalations in acts of violent extremism committed by non-state actors are closely intertwined with transnational terrorism. It is in furtherance of this realization that the Member States agreed to deliberate on the legal implications of violent extremism and its manifestations in the Fifty-Third Annual Session held in Tehran in 2014. At the Fifty-Fourth Annual Session (2015), AALCO Member States discussed the scourge of violent extremism and the havoc that this phenomenon is wreaking across Asia, Africa and the Middle East. In particular, violent extremist groups such as ISIL, Boko Haram and Al Qaeda were denounced, along with their activities and other terrorist attacks in Kenya, Pakistan and Somalia.

There was consensus among States that measures must be taken at the regional level to enhance cooperation in combating violent extremism and violent extremist groups, in addition to bilateral measures, capacity building and information sharing. To this end, the importance of UN Security Council Resolution 2178 of 2014 was also emphasized.

This UN Resolution, at a historic meeting held at the levels of State or Government, calls upon member states to prevent and suppress recruiting, organizing, transporting or equipping, prevent and suppress financing, and prevent travel of foreign terrorist fighters.

Most importantly, pursuant to the discussion on Plan of Action (PoA) in the UNGA’s seventieth session, AALCO has formulated a ‘Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and Manifestations, 2016, which has been presented before all its Member-States, at its 55<sup>th</sup> Annual Session, for them to co-operate and work together in this regard.

After the conclusion of the second Inter-Sessional Meeting on May 16, 2016 and the Fifty-Fifth Annual Session, the AALCO Secretariat was directed, *vide* resolution

AALCO/RES/55/S9, to prepare a report on the ongoing discussions on the topic of Violent Extremism at the United Nations level which was presented at the Fifty-Sixth Annual Session in 2017 and discussed by a Working Group convened for this purpose during the 2017 Session.

Additionally, the Secretariat was directed to prepare a draft resolution in line with comments received from AALCO Member States at the Inter-Sessional Meeting, which is also to be discussed by the Working Group. Constructive discussions took place in this regard at the meeting of the Working Group on Violent Extremism and Terrorism, on May 01, 2017.

The Secretariat is committed to continue following developments at the global and regional levels to counter violent extremism and prevention of violent extremism, in addition to discussions on the matter at the international level.

### ***J. International Law in Cyberspace***

In the past decade many AALCO Member States increasingly recognized the need for comprehensive legislations to combat cybercrimes. In tandem with national developments, AALCO Member States have joined various international and regional instruments aimed at countering the proliferation of cybercrimes and improving international cooperation for the harmonization of cyber-laws.

However, differences between Member States regarding the mechanism for such harmonization still continue to persist. While some States advocate for the formulation of a comprehensive global convention, others are in favor of harmonizing domestic laws to the standards of existing international instruments. Further, a few AALCO Member States have not been in favor of a more universal ratification of the Budapest Convention.

Recognizing *inter alia* the importance of an intergovernmental deliberation to enhance cooperation in this area, People's Republic of China, in accordance with AALCO Statutory Rules, proposed "International Law in Cyberspace" as an agenda item to be deliberated at the Fifty-Third Annual Session of AALCO held in Tehran in 2014 and it was accepted by consensus. The Agenda Item was thereafter discussed at the Fifty-Fourth, Fifty-Fifth and Fifty-Sixth Annual Sessions, in 2015, 2016 and 2017 respectively.

The resolution on the agenda item adopted in the 2015 AALCO Annual Session directed the Secretariat to study this subject based on deliberation and progress made in the UN framework and other forums, with special attention to international law pertaining to State Sovereignty in cyberspace, peaceful use of cyberspace, rules of international cooperation in combating cybercrimes, and identification of the relevant provisions of the UN Charter and other international instruments related to cyberspace. The "Special Study" was published by the Secretariat in 2017.

Further, an Open-ended Working Group on International Law in Cyberspace was constituted in 2015 to discuss the aforementioned topics in-depth. This Group met for the first time at the Fifty-Fifth Annual Session in 2016. The second meeting was held at the AALCO Headquarters in New Delhi in February, 2017.

AALCO was also invited to the Global Conference on Cyberspace 2017 (November 23-24, 2017, New Delhi, India) hosted by the Ministry of Electronics and Information

Technology of the Government of India under the theme Cyber for All: A Safe, Secure and Inclusive Cyberspace for Sustainable Development.

AALCO was invited and attended the 4th World Internet Conference (WIC) held at Wuzhen International Internet Exhibition and Convention Centre in Wuzhen, China from December 03-05, 2017. I presented a paper on “Relevance of International Law in Combating Cybercrime: Current Issues and AALCO’s Approach” at the session on “International Cooperation in Countering the Use of Cyberspace for Criminal and Terrorist Purposes”.

AALCO, as a multilateral forum representing such divergent interests and positions on the topic, holds immense potential for its Member States to be used as a platform to further deliberate on outstanding issues that come in the way of institutionalization of effective cooperation mechanisms.

## **VI. JOURNAL AND INTERNSHIP AT AALCO**

AALCO Secretariat also maintains periodic publications like the “AALCO Journal of International Law” since 2012.

AALCO offers opportunities for undergraduate and graduate students to intern at its headquarters in Chanakyapuri, New Delhi. It provides students a chance to observe the functioning of an intergovernmental organization up-close. AALCO has employees from Asian and African nations. So it also gives interns a glimpse of what it is like to work in a multicultural environment.

The internship programme at AALCO is designed to:

- Give students and young professionals the opportunity to assist AALCO experts in undertaking research and analysis on a wide variety of international legal issues that have a bearing on the legal interests of the Member States of AALCO;
- Allow them to gain experience and to deepen their knowledge and understanding of the way international law affects the legal interests of the Member States of AALCO; and
- Help them develop their analytical skills.

During the internship, students are expected to:

- Provide assistance in research and data collection;
- Draft papers and briefing notes under the supervision of the Legal Officers;
- Study and report on any of the topics of AALCO Work Programme;
- Provide assistance in the organization of events;
- Perform administrative tasks such as updating calendar of meetings, drafting letters, filing etc.; and
- Proof reading various documents.

AALCO’s Internship Programme is a full-time programme and normally begins in the first week of every month. Internships usually cover a period of one month. However, in special cases, the duration of internships may be extended. For details on application procedure, eligibility criteria and selection procedure, visit the AALCO website [www.aalco.int](http://www.aalco.int).

## **VII. CONCLUSION**

Going by the track record of the Organization in the last 62 years, it is evident that AALCO has made invaluable contributions not only towards the field of international law as such but also played a vital role in strengthening intercontinental solidarity, regional governance and safeguarding the common rights and interests of Asian-African States.

In summation, therefore, it may be stated that AALCO has immensely contributed to the progressive development of international law, by assisting the developing countries of the Asian-African region to participate effectively in the negotiations, by preparing research briefs and serving as a consultative forum where members could share their difficulties and challenges, and building consensus among them on several issues of international concern. This so far, has been made possible by the extraordinary dedication and intellect of generations of legal experts from Asia and Africa.

It is in this spirit that I urge you to consider studying international law further and pursue a career in an international organization or academia geared towards ensuring international peace and cooperation, making this world a better place to live.