

SPEECH BY HON. RAUFF HAKEEM, THE MINISTER OF JUSTICE OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA AND THE PRESIDENT OF AALCO AT THE RESUMED 314TH LIAISON OFFICERS MEETING OF AALCO MEMBER STATES, HELD ON 24TH JANUARY 2012, AT 10.30 AM AT THE AALCO HEADQUARTERS.

Prof. Dr. Rahmat Mohamad, the Secretary-General of the Asian-African Legal Consultative Organization,

H.E. Mr. Prasad Kariyawasam, the High Commissioner for Sri Lanka in New Delhi,

Dr. Hassan Soleimani and Dr. Fukahori, the Deputy Secretaries-General of AALCO,

Mr. M.H.M Salman, my Coordinating Secretary Legal Affairs,

Dear Liaison Officers, Members of the AALCO Secretariat Staff, Interns, Ladies and Gentlemen.

It gives me immense pleasure to be amongst you particularly because each one of you is the vital link between your capitals and AALCO. I must at the very outset thank the Secretary-General and the Organization for having given us the chance of hosting a milestone conference, the Fiftieth Annual Session of the Asian-African Legal Consultative Organization, in Colombo last year. It was a very memorable occasion for all of us and some of you who had the good fortune of attending it, I am sure, would still be carrying some happy memories of the few days that you spent in Colombo.

Very useful deliberations on a variety of subjects including Jurisdictional Immunities of States and Their Property, the Law of the Sea, the question of Palestine, UNCITRAL and of course two half-day meetings on Trafficking in Women and Children, Migrant Workers and Protection of Children and International Commercial Arbitration, were some among the many topics that we were able to deliberate very extensively, in those sessions. We feel that another milestone achievement at the Fiftieth Session was to follow-up on a suggestion that took shape at the Forty-Ninth Annual Session, that was to set up the Eminent Persons Group, and Sri Lanka there again has the unique honour to Chair the EPG as well. One of the eminent jurists from Sri Lanka Dr. Rohan Perera is currently the chair of the EPG. This group as you all know has among its mandate the task of guiding the trajectory of deliberations of AALCO, when it meets annually. We felt that it was important since there was a plethora of different items that are to be taken up, to prioritize some of those crucial items, for some deep deliberation among Member countries. The EPG was the Secretary-General's idea which has now taken shape, and hopefully there will be more focus on some of the important current themes by the member countries in the future sessions.

That does not take away the wonderful work that has up to now been done by AALCO for several long years. Just to briefly encapsulate the history of AALCO, this was an

outcome of the famous Bandung Conference way back in 1955, which was a precursor to the Non-Aligned Movement, particularly for us in the Asian-African community, we having been under the bondage of colonialism for many long years, for us the opportunity to enjoy the status of our own sovereignty and being able to project ourselves independently in international fora, came with this burden that we lacked expertise on many of the issues that we had to face. It so happened that as an off shoot of the Bandung Conference, not only the Non-Aligned Movement but AALCO also was born, the very next year in 1956. There again Sri Lanka is very proud to be one of the original members of the organization. Since then we have had the unique honour of having hosted the AALCO Annual Sessions four times over. It is with that pride that I am able to say few things about its current work.

Ever since the Second World War and the formation of the United Nations it became apparent that with the proliferation of treaties and conventions ratified by all newly independent States, within Asia and Africa regions, it was important among us that we deliberate well, look at implications, of these treaties and conventions in our own domestic jurisdictions in our own countries, and we have as a result of these treaties and conventions have had to adopt our own domestic legislations to give effect to some of those treaties and conventions. That called for expertise that also called for drafting of model laws to assist other Member States to try and imbibe and understand the implications of those treaties and conventions to our own countries. Of course the powerful doctrine of sovereignty and equality of States ever since the Westphalian order in 1648 has been the cornerstone of international law making, for us in the Asian-African community after the two World Wars it has been a gradual experience of enjoying that independence and freedom, to be treated as a legal persona in the international legal context. Each of you Liaison Officers carries such a big burden on your shoulders, because you in fact are giving effect to that legal persona, and carry that moral responsibility of trying to interpret the work of AALCO to your own domestic regimes, so that you make a well considered decision when you go before the International Law Commission.

As a matter of fact I had the unique honour to be present at the Sixty-third session of the ILC, when it met in New York last year along with Secretary-General and I was able to look at the way in which ILC functions, at least when it comes to the Sixth Committee's work. It is indeed a very important responsibility which all of you Liaison Officers are carrying out, and I must thank the many amongst you of you who regularly come for these deliberations here at AALCO and hope that those of you who do not make it regularly do take this work seriously because it matters most for this Organization and each Member country that we talk among ourselves and understand each concept and each developing norm, take it forward and understand the nuances between the concepts and its final application. I am indeed happy that today in the afternoon I will be able to talk on one of those concepts which is troubling most of us "The Responsibility to Protect" which to a certain extent is reflecting the North-South divide in international for a, when you come to look at the implications for our own countries.

AALCO's contribution, I feel, in many matters has been groundbreaking. Some of us do not realize how much of originality and novel ideas we have contributed to the codification of international law. To mention a few, the Sri Lankans are very happy, that way back in 1970's when we hosted an AALCO conference in Colombo, when discussing the Law of the Sea, it was in Colombo that we mooted the idea of the "Exclusive Economic Zone" (EEZ), which is an original idea which came out of AALCO and which now forms an important segment of the Law of the Sea. We in AALCO can be very proud that we were the progenitors of this idea of the EEZ, and of course even the concept of the "Archangelic State" and how its rights and duties, when it comes to the Law of the Sea is to be defined, was another idea that originated from among the AALCO deliberations, and finally got on to the table of the International Law Commission and is now part of the Law of the Sea.

The other major contribution of the AALCO is the adoption of the 1966 Bangkok Principles on the Status and Treatment of Refugees, is also a contribution that emanated from AALCO deliberations and these principles were later revised in 2001. Then about the invalidity of treaties, is another issue, when it comes to the Law of Treaties this aspect of invalidation of treaties and the norms that shape that concept was also a contribution that largely took shape first among the AALCO Member States and then got on to the ILC agenda. Even on the Law of Diplomatic Immunities and Privileges, we have made a very valuable input, and some of these ideas concerning law of diplomatic immunities and privileges originated from some original concepts and ideas that developed from among the deliberations among us. Then, of course the law against the Trafficking of Women and Children is largely from among the deliberations that were taking place among our Organization and have now got on to shaping the international law concerning that aspect of it. Therefore, we could certainly be very proud of having contributed immensely to the area of international law.

At present, there are major international legal challenges faced by us the Asian and African Community, in the present day context I can just flag some of them, issues relating to climate change, it was only a month or two in Durban, we once again saw from Cancun to Durban to how difficult it has been for some kind of international consensus to emerge on matters of vital concern when it comes to climate change. It is important for us to focus on some of these developing issues so that we would be able to build up some possible consensus. One of our members China has been able to agree on some of the vital principles in Durban, and that is a big relief for many countries, whereas Canada and other are now drifting away. Therefore, it's not easy to build consensus on some of these contentious issues. WTO and Intellectual Property Rights we have so much of convergence there again deep deliberation and understanding among us would help in collectively bargaining on behalf of our two regions. International Terrorism, Piracy, Cyber Crime are all issues that need to be deliberated upon, for us to come to some minimal understanding. It was only a few days ago in the UN there has been some deliberation on the concept of International Rule of Law, the components of the Dician concept of rule of law when it comes to domestic application poses a lot of problems when you want to transplant the rule of law concept and its domestic application at the international scene. Therefore, some of the normative foundations of rule of law concept

at the domestic level and when it comes to the UN rule of law activity are different, specially when the UN wants to impose the rule of law through its peace keeping missions has come into a fair amount of criticism, it poses a lot of challenges and problems and has implications for all of us member States, thus we need to take this subject on for deliberation among us so that we will be well armed and ready to face up the challenges when the ILC and the Sixth Committee take up this subject, and thereafter, when the need be when the topic is discussed in the General Assembly.

Another very contentious subject is the Universality of the International Criminal Justice System, the ICJ and its work and of course the other element concerning the ICC. There again there is so much of divergence and so many difficulties in trying to enforce the international criminal justice jurisdiction. Then internationalization and universalization as in international law but it fails to properly understand and recognize and engage with other legal systems, many of our countries have their unique Islamic Jurisprudence that we have within our own domestic legal arena, but when it comes to international law there is still some reluctance and lack of understanding of the application of the Islamic law and the richness of the law and the valuable concepts that lie within it. If properly understood and accommodated would certainly make the international legal system more cohesive and effective. Therefore, if we all are able to deliberate among ourselves this dichotomy can also be resolved to the satisfaction of all of us.

All in all I think the very existence of AALCO and its valuable work that has resulted in substantive contribution to the codification of international law leaves us to be very happy about the work we have done thus far but more has to be done, more could be done and the AALCO Secretariat could coordinate this work well, provided all of you Liaison Officers who carry this burden or as I told you at the very outset of trying to engage with the rest of the member countries, share your thoughts on this and then report to your capitals about the thinking that bothers your friends here, when it comes to different concepts and norms and its implications, when it comes to the ILC, this is very important and pivotal.

I believe I am extremely fortunate to have been amongst you this morning to try and share some of these thoughts with you and hopefully if time permits, please do come to the lecture in the afternoon at the Indian Council of World Affairs, as I am going to talk of a very controversial topic the R2P concept which is anathema to many of us but is nevertheless is a concept we have to take cognizance of and be ready to shape and change in its application. The topic of my discussion is “Responsibility to Protect: Asian-African Perspective, therefore, its of very much relevance to your own countries and am sure in my understanding of this topic I am sure I will do justice to the thinking of AALCO and its member States.

Thank You.