

Asian African Legal Consultative Organization (AALCO)

The Fifty-Third Annual Session

September 15-18

Background Paper

Special half-day meeting

On

Violent Extremism and Terrorism

(Legal Aspects)

Violent extremism, a serious common concern

The purpose of this paper is to provide some food for thought on the occasion of a half-day special panel session on the issue of violent extremism and terrorism, to be held on 16 September 2014 as part of the Fifty-Third Annual Session of Asian African Legal Consultative Organization (AALCO). Violent extremism and its different manifestations which have engulfed a number of countries in Asia and Africa affects many communities across both regions by propagating terror violence, acts of terrorism and other abhorrent criminalities. These acts require a coordinated international response since they also endanger regional peace and security.

Violent extremism not only poses a real threat to life and limb of innocent civilians but also seriously endangers peace and security of States. The multi-faceted scourge of violent extremism has become so pandemic for the past couple of years that an increasing number of AALCO Member States have been hard hit by its diverse atrocious manifestations; many innocent civilians have fallen victim to horrendous acts of terror violence perpetrated by members of extremist groups throughout Asia and Africa and millions of people in the two continents are affected by the surge in violent extremism. The appalling story of

hundreds of girls being abducted in Nigeria or thousands of innocent men and women being persecuted and massacred in Iraq is extremely shocking and utterly heartbreaking. The brutality exhibited by violent extremist groups in the name of their faith and belief is alarmingly unprecedented and represents a serious threat to peace, security and stability of States, particularly in Asia and Africa.

Violent extremism and international law

International law, both contractual and customary, seems to be adequately equipped to criminalize and suppress violent extremism and acts of terrorism. Moreover, due to the fact that the criminal and hostile activities committed by such unlawful groups and entities jeopardize the internal stability and external security of nations, their acts might be qualified as threatening peace and security. In tandem, the criminal acts perpetrated by violent extremist groups violate universally recognized human rights and humanitarian law and undermine international peace and security.

The responsibility of States is well recognized to act in such circumstances in order both to protect their people against violent extremism and acts of terrorism and to suppress the perpetrators of such acts by prosecuting and punishing them; and that's where international law can help States merge their efforts and find a workable basis for an integrated law-based cooperation at bilateral and multilateral levels. This is all the more crucial given the fact that violent extremism has no respect for recognized rules and principles of international law governing international relations as it continues to infringe upon national borders, trespass State sovereignty and undermine peace and stability. Violent extremism also brings into play international criminal law as many criminal acts committed by violent extremist groups, e.g., arbitrary executions and cold-blooded massacres, bombing, kidnapping, hostage-taking, and other similar heinous acts could be qualified as acts of terrorism, many of them amounting to grave crimes of international nature, constitute serious criminal offences and entail individual criminal responsibility of the perpetrators and their accomplices. Such acts engage the responsibility of the States concerned as well to take necessary measures to fight impunity by enforcing justice and making the culprits accountable for their vicious acts.

AALCO as an opportune forum to mobilize legal arsenal against violent extremism

The Asian and African regions, particularly many AALCO Member States, are currently facing an upsurge in violent extremism and terrorist acts the suppression of which necessitates collective political will and close cooperation. This new upsurge is characterized by the emergence of unlawful extremist armed groups abusing faith for radicalization of the youth in some

Asian- African countries in pursuance of their ill-witted plots to destabilize lawfully elected governments, undermine public security and national stability by wreaking havoc among populations. This upsurge has manifested itself by the following despicable acts, to name but a few:

- Grave atrocities against civilian targets and populations, particularly women and children, amounting to war crimes and crimes against humanity;
- Acts of terrorism;
- Pillage of national resources and wanton destruction of public and private property, particularly cultural heritage;
- Infringement of States' territorial integrity and encroachment upon their sovereignty;
- Violent subversion of lawfully elected governments;
- Grave violation of human rights and humanitarian law;

That said, the very much needed inter-State cooperation for tackling the unparalleled challenges arising from violent extremism may be based on the following legal instruments, among others, where applicable:

- Charter of the United Nations;
- International legal instruments concluded against terrorism;
- Regional legal instruments against terrorism including 1998 Arab Convention on the Suppression of Terrorism, 1999 Organization of African Union Convention on the Prevention and Combating of Terrorism, 1999 Convention of the Organization of Islamic Conference on Combating International Terrorism, ASEAN Convention on Counter-Terrorism, Lomé Declaration of African Union on Unconstitutional Changes of Governments;
- 1998 Rome Statute of the International Criminal Court;
- 1948 Convention on the Prevention and Punishment of the Crime of Genocide;
- United Nations convention against Transnational Organized Crime and the protocols thereto.

Deliberations

In view of the recent developments in Asian and African regions, the participants in the half-day special meeting on violent extremism and terrorism are advised to focus their deliberations on the following:

- International cooperation against violent extremism and acts of terrorism at international, regional and sub-regional levels;
- Fight against impunity through domestic and international criminal law apparatus;
- Responsibility of States to prevent, investigate and prosecute violent extremism and acts of terrorism

- Regional cooperation in pursuit of maintenance of peace and security.

Outcome of the meeting

In light of the above and given the seriousness of the challenge this scourge poses to humanity at large, the AALCO Secretariat recommends to use this opportunity to mobilize AALCO Members States' legal expertise to counter violent extremism and terrorism more effectively. The Secretariat deems it advisable for the Member States to recap the deliberations on this issue during the special half-day meeting in the form of a general declaration or resolution. This proposed declaration/resolution should reflect the common concerns and elements concerning violent extremism and terrorism provide insight into the legal complexities surrounding this challenge and present innovative approaches to promote the effective use of international legal apparatus to curb this menace.