

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



**VIOLENT EXTREMISM AND TERRORISM
(LEGAL ASPECTS)**

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VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

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VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

I. Introduction

1. The threats of violent extremism and terrorism continue to be major concerns for the international community in general, and for States in Africa, the Middle East, and Asia particularly. Combating violent extremism and terrorism remains a priority for States all across the globe and, as a contemporary issue in international law, the topic of violent extremism, within the broad context of terrorism, particularly focusing on the legal issues surrounding the topic, found its way into AALCO's work programme in 2014.
2. The item entitled "International Terrorism" was placed on the agenda of AALCO's Fortieth Session held in New Delhi, India (2001), upon a reference made by the Government of India. It was felt that consideration of this item by AALCO would be useful and relevant in the context of the then-ongoing negotiations in the *Ad hoc* Committee of the United Nations on elaboration of the Comprehensive Convention on International Terrorism (CCIT). During the Forty-First Annual Session of AALCO held in Abuja, Nigeria (2002), a comprehensive Special Meeting on "Human Rights and Combating Terrorism" was organized by AALCO with the assistance of the Office of the High Commissioner for Human Rights (OHCHR). Subsequent sessions directed the AALCO Secretariat to monitor and report on the progress in the *Ad hoc* Committee on negotiations related to the drafting of the Comprehensive Convention on International Terrorism (CCIT), and requested the Secretariat to carry out an in-depth study on this topic. AALCO's Centre for Research and Training (CRT) thereafter published "A Preliminary Study on the Concept of International Terrorism" in 2006.
3. In the wake of atrocities committed by extremist groups in Africa, Asia and the Middle East, the title of the topic was modified to "Violent Extremism and Terrorism (Legal Aspects)" at the behest of the Islamic Republic of Iran and introduced into AALCO's Agenda in 2014 at the Fifty-Third Annual Session held in Tehran, Iran. The Fifty-Third Annual Session also included a Half-Day Special Meeting on the topic.
4. The introduction of the modified topic into the AALCO Agenda followed the unanimous adoption of UNGA Resolution 68/127, entitled "A World Against Violence and Violent Extremism",¹ on 18 December 2013, which, *inter alia*, strongly condemned violent extremism in all its forms and manifestations, denounced sectarian violence, and recognized the need for a comprehensive approach to countering violent extremism while addressing the conditions conducive to its spread. Soon thereafter, the UN Security Council passed Resolution 2178 on 24 September 2014.² Resolution 2178, which was co-sponsored by more than 100 nations, stressed, *inter alia*, on the importance of addressing the threat posed by foreign terrorist fighters and strengthening international cooperation.
5. The Fifty-Third Annual Session included a Half-Day Special Meeting on the topic of "Violent Extremism and Terrorism (Legal Aspects)", wherein a resolution was passed (AALCO/RES/53/SP2), directing the AALCO Secretariat to "coordinate holding inter-sessional expert meetings [...] to consider AALCO principles for coordination to combat violent extremism and its manifestations which could lead to drafting Asian-African

¹ A/RES/68/127.

² S/RES/2178.

guidelines on violent extremism and its manifestations [...]” This directive was also reiterated vide resolution AALCO/RES/54/S9 at the Fifty-Fourth Annual Session in Beijing, People’s Republic of China (2015). In pursuance of these directives, the AALCO Secretariat convened two Inter-Sessional Meetings of Legal Experts on Violent Extremism and its Manifestations: from 28-29 January 2016; and on 16 May 2016. Over the course of this two-day Meeting, the Secretariat’s Draft on “Principles and Guidelines to Combat Violent Extremism and its Manifestations” were considered by legal experts from the AALCO Member States.

6. After the conclusion of the second Inter-Sessional Meeting on 16 May 2016 and the Fifty-Fifth Annual Session, the 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 is to be presented at the Fifty-Sixth Annual Session in 2017 and discussed by a Working Group to be convened for this purpose during the 2017 Session.³ 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.⁴
7. This brief will therefore summarily review the work done by the AALCO Secretariat on the topic of “Violent Extremism and Its Manifestations” as well as the outcomes of the two Inter-Sessional Meetings held in 2016. The brief will also contain an overview of the work done by the United Nations and its Agencies including: The Fourth Report of the UN Secretary-General on the Threat Posed by ISIL; and the Fifth Review of the UN Global Counter-Terrorism Strategy.

II. Work of the Secretariat on the Topic of “Violent Extremism and its Manifestations”

8. The *Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations* was originally prepared by the AALCO Secretariat pursuant to the mandate received by the Secretariat *vide* RES/53/SP2 and in preparation for the two-day Inter-Sessional Meeting of Legal Experts that was convened on 28-29 January 2016. the Secretariat prepared and distributed the Draft, as well as an accompanying explanatory note, which was meant to form the basis of the discussions at the Meeting.
9. The operative part of the *Draft Resolution* was divided into two sections. Section I contained eleven Principles of international law identified by the AALCO Secretariat to be relevant to the fight against violent extremism and drawn from various sources of international law, primarily the UN Charter, Friendly Relations Declaration⁵ and customary international law. These Principles serve to reflect those important principles that States are encouraged, and in some cases obliged, to observe and respect while combating violent extremism.
10. Section II of the *Draft Resolution* contained 16 Guidelines that constituted more specific measures identified by the AALCO Secretariat, based on practical needs and challenges, as useful steps for States to take in combating the scourge of violent extremism. The Guidelines, and some Principles, were also conceptually and thematically influenced by *Pillar I* and *Pillar IV* of the United Nations Global Counterterrorism Strategy, which work to

³ AALCO/RES/55/S9, Operative Paragraph 3.

⁴ AALCO/RES/55/S9, Operative Paragraph 4

⁵ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, A/RES/2625(XXV), 24 October 1970.

address the circumstantial factors that contribute to the spread of terrorism and, by extension, violent extremism, and the protection of human rights.

11. Additionally, the chapeau part of the *Draft Resolution* contained a definition for “Violent Extremism” that was drafted by the Secretariat in reaction to the confusingly indiscriminate and interchangeable use of the terms “violent extremism” and “terrorism”, which in itself is due to fact that no prior attempts have been made to authoritatively define “violent extremism” from a legal perspective. The Secretariat also endeavored to define the terms “Violent Extremist Groups” and “Radicalization” for the purpose of interpreting the provisions of the *Draft Resolution*.
12. The Explanatory Note accompanying the *Draft Resolution*, provided the background and the rationale for the specific provisions, and language contained therein, of the *Draft Resolution* and explained the basis of the Secretariat’s conclusions and understanding of the various facets of Violent Extremism. A copy of the *Draft Resolution* is annexed to this brief as ANNEX I for ease of reference.

III. Summary of the Outcomes of the Two Inter-Sessional meetings of Legal Experts

13. The first Inter-Sessional Meeting of Legal Experts, chaired by Ms. Alice Otuteye, Deputy High Commissioner of Ghana, saw the participation of 25 AALCO Member States; 24 of whom delegated representatives at the Meeting and one additional State which submitted written comments to the Secretariat concerning the *Draft Resolution*. While certain elements of the *Draft Resolution*, such as the definition of the term “violent extremism”, did not find consensual solutions at the Meeting, the majority of the provisions of the *Draft* were eventually provisionally adopted by the representatives present at the meeting after discussions and certain amendments. The delegates from Turkey and the People’s Republic of China also submitted, for the consideration of other delegations, texts of possible additional provisions.
14. However, due to the fact that the representatives felt that not all the provisions of the *Draft* had been adequately discussed, it was decided that a Second Meeting would be held immediately prior to the Annual Session, allowing the representatives to complete a *Draft* that could be presented to the Plenary for adoption. The Secretariat therefore scheduled a second Inter-Sessional Meeting of Legal Experts, to be held on 16 May 2016, which would give the delegates the opportunity to complete the draft to be submitted to the Plenary at the Fifty-Fifth Annual Session.
15. The *Revised Text of the AALCO Principles and Guidelines/Guiding Principles to Combat Violent Extremism*, as provisionally agreed to at the conclusion of the first Inter-Sessional Meeting, was distributed to the Member States for their consideration immediately following the Meeting. Additionally, the Secretariat also prepared a Summary Report of the proceedings of the Inter-Sessional Meeting and uploaded it to the AALCO website for the perusal of interested parties.⁶
16. The Second Inter-Sessional Meeting of Legal Experts was held one day prior to the Fifty-Fifth Annual Session of AALCO and was chaired by Mr. Mahmoud Samy, Assistant Foreign

⁶ All relevant documents pertaining to the first Inter-Sessional Meeting of Legal Experts on Violent Extremism and Its Manifestations held on 28-29 January 2016 can be found at <<http://www.aalco.int/scripts/list-posting.asp?recordid=464>>.

Minister for International Legal Affairs and Treaties, Egypt. At this meeting, it was agreed by the delegates that, in light of ongoing discussions at the international level at the UN General Assembly and other fora, the Secretariat would be better served reporting on the continuing deliberations in the UNGA, and other fora, for the purpose of submitting the report to a Working Group to be constituted at the Fifty-Sixth Annual Session in 2017. The Resolution on the topic,⁷ was thereafter amended to reflect this conclusion and adopted by the AALCO Plenary.

IV. Ongoing Discussions at the United Nations Level

A. Fifth Review of the UN Global Counter-Terrorism Strategy

17. On 1 July 2016, the United Nations General Assembly adopted by consensus, resolution A/RES/70/291 on the Fifth Review of Global Counter-Terrorism Strategy reinforcing global consensus in the fight against terrorism and violent extremism. The Assembly reviews the Strategy every two years, and the adoption of a new resolution came on the second and last day of the fifth review held at UN Headquarters in New York, on the tenth anniversary of the Strategy.
18. The 15-page resolution, “calls upon Member States, the United Nations and other appropriate international, regional and subregional organizations to step up their efforts” to implement, in an integrated and balanced manner, the UN Global Counter-Terrorism Strategy, an instrument adopted by the Assembly in 2006 to enhance national, regional and international efforts to counter terrorism. The text also “reiterates its strong and unequivocal condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes.”
19. The General Assembly recognized the importance of preventing violent extremism as and when conducive to terrorism and, recommended that Member States consider the implementation of relevant recommendations of the Secretary-General’s Plan of Action to Prevent Violent Extremism, as applicable to the national context. The resolution, while acknowledging the difficulties faced by the international community in addressing the conditions conducive to the spread of terrorism and violent extremism, which can be conducive to terrorism, urged Member States and the United Nations system to take measures, pursuant to international law and while ensuring national ownership, to address all drivers of violent extremism conducive to terrorism, both internal and external, in a balanced manner.
20. The General Assembly also called upon Member States to strengthen cooperation at the international, regional, subregional and bilateral levels to counter the threat posed by foreign terrorist fighters, including through enhanced operational and timely information-sharing, logistical support, as appropriate, and capacity-building activities, to share and adopt best practices to identify foreign terrorist fighters, to prevent the travel of foreign terrorist fighters from, into or through Member States, to prevent the financing, mobilization, recruitment and organization of foreign terrorist fighters, to strengthen international and regional cooperation in information-sharing, and upon law enforcement and criminal justice authorities to better counter the threat of returning foreign terrorist fighters, to counter violent extremism conducive to terrorism and radicalization to terrorism, to enhance efforts to implement

⁷ RES/55/S9

deradicalization programmes and to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in the supporting of terrorist acts or in providing funds to terrorists is brought to justice, in compliance with obligations under international law, as well as applicable domestic law.

21. Fundamentally, the resolution also reiterated the notion that terrorism and violent extremism as and when conducive to terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group, and that any measures taken by Member States to prevent and combat terrorism, as well as to prevent violent extremism as and when conducive to terrorism, must fully comply with their obligations under international law, including the Charter, in particular the purposes and principles thereof, and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law. It was further stressed by the UNGA that counter-terrorism efforts that neglect the rule of law, at the national and international levels, and violate international law, including the Charter of the United Nations, international humanitarian law and refugee law, human rights and fundamental freedoms, not only betray the values they seek to uphold, but may also further fuel violent extremism that can be conducive to terrorism.
22. The resolution also affirmed the importance of education as a tool to help prevent terrorism and violent extremism conducive to terrorism, and welcomed the United Nations Educational, Scientific, and Cultural Organization's engagement with Member States to implement strategies to prevent violent extremism conducive to terrorism through education.

B. Fourth Report of the UN Secretary-General on the Threat Posed by ISIL

23. In its resolution 2253 (2015), the Security Council expressed its determination to address the threat posed to international peace and security by Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) and emphasized the importance of cutting off its access to funds and preventing it from planning and facilitating attacks. The resolution also requested that the UN Secretary-General provide an initial strategic-level report, followed by updates every four months thereafter. The Fourth such report was submitted in on 2 February 2017.
24. The report was prepared with the input of the Counter-Terrorism Committee Executive Directorate, in close collaboration with the Analytical Support and Sanctions Monitoring Team pursuant to Security Council resolution 1526 (2014) and 2253 (2015), the Counter-Terrorism Implementation Task Force, the United Nations Counter-Terrorism Centre and other relevant United Nations actors and international and regional organizations. In addition to providing an update on the gravity of the threat posed by ISIL and associated groups and entities, the report also considered the presence and influence of ISIL outside Iraq and the Syrian Arab Republic, including in Europe, the Maghreb and West Africa. Also addressed were the efforts of Member States of those regions to implement measures in a number of thematic areas, including in order to counter the threat posed by foreign terrorist fighters who either return to their home States or travel to other States.
25. The Secretary-General broadly divided his report based on three main themes: i) the current threat posed by ISIL; ii) the evolving threat posed by ISIL; and, iii) Responses to the evolving threat. The third section of the report addressed several counter violent extremism (CVE), prevention of violent extremism (PVE) and counter-radicalisation efforts being undertaken in different parts of the world by different actors to counter the threat of ISIS.

26. The Secretary-General identified the need for Member States, and international, regional and subregional organisations, to form partnerships with communications service providers in order to combat ISIL and the spread of violent extremism online. He also mentioned the announcement by Facebook, Microsoft, Twitter and YouTube to develop a joint database containing “digital fingerprints” of violent extremist images, designed to facilitate the removal of content that violates website terms and conditions.
27. The report mentioned that Member States are developing comprehensive approaches to countering and preventing violent extremism, including broadening partnerships with a range of stakeholders and non-governmental actors to increase the effectiveness of such strategies. The European Union developed the “IMPACT Europe” project, which consists of an evaluation toolkit that draws on a knowledge database on radicalization factors and existing intervention, a training course and a manual, and the project on preventing interdicting and mitigating extremism, known as the “PRIME” project, to develop a model of “lone actor” extremist events. These initiatives rely on the participation of individuals who are credible in the eyes of the targeted individual, such as former members of extremist groups, highlight the role of family, friends and the local community in the de-radicalization process and recognize the need to address psychological factors and offer alternatives to individuals at risk of radicalization.
28. The report also outlined programs of the United Nations Interregional Crime and Justice Research Institute and United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) to train religious leaders and prison psychologists and provide vocational and educational programmes aimed at preventing radicalization and violent extremism in prison settings. Similar training programmes were also held by the Interregional Crime and Justice Research Institute in Morocco.
29. In November, the Sahel Working Group of the Global Counterterrorism Forum, with the participation of the Counter-Terrorism Implementation Task Force, held an expert workshop and plenary meeting in Algiers on national plans to prevent violent extremism. The discussions focused on national plans to prevent violent extremism, the establishment of networks among regional and national practitioners and the identification of resources. A joint meeting of OHCHR, the Commission of the African Union and the African Centre for Studies and Research on Terrorism on gender and preventing violent extremism was also held in Algiers in November and focused on strengthening the gender dimension of the Commission and its member States, programmes and policies on violent extremism, analysis of promising practices and areas in need of further research and guidance. The participants shared good practices from Algeria, Mali, Nigeria and Somalia, as well as from Latin American States.
30. According to the United Nations Interregional Crime and Justice Research Institute is currently implementing a four-year pilot project on countering radicalization and violent extremism in the Sahel and the Maghreb, aimed at strengthening the capacity of civil society and non-State actors, including women’s and youth organizations, the media, cultural and religious associations and local communities, to deliver innovative activities and disseminate lessons learned and good practices. During 2016, the Institute also reviewed initiatives to counter violent extremism designed by non-governmental organizations in Maghreb and the Sahel, with a view to identifying certain initiatives for evaluation from 2017 onwards.
31. A project of the Counter-Terrorism Implementation Task Force Working Group on Protecting and Promoting Human Rights and the Rule of Law while Countering Terrorism

continues to train law enforcement officials on human rights law and human rights-compliant responses to counter terrorism. A training event was held in Abuja in September for 25 mid-to-senior-ranking Nigerian law enforcement and security officials engaged in counter-terrorism to strengthen their knowledge of human rights laws and the principles applicable to their area of practice.

32. The report of the Secretary-General also made special mention of the UN Office on Drugs and Crime (UNODC) *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons*,⁸ which was published in November 2016. This comprehensive Handbook was also accompanied by a summary of recommendations entitled: *Key principles and recommendations for the management of violent extremist prisoners and the prevention of radicalization to violence in prisons*.⁹ The handbook and the summary focus on, *inter alia*: Fundamental issues with managing violent extremist prisoners; the management of prison staff that work with violent extremist prisoners; assessment of the risks posed by these prisoners; disengagement of the prisoners with violent extremist beliefs; prevention of radicalisation to violent extremism; and, reintegration of prisoners into the community.

V. Comments and Observations of the AALCO Secretariat

33. The recent efforts made at the UN level and the findings of the report of the UN Secretary-General are very much in line with the recommendations made in the Secretary-General's *Plan of Action to Prevent Violent Extremism*¹⁰ which was delivered on 24 December 2015. They also reflect the veracity of the recommendations made by the AALCO Secretariat in its *Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations*.
34. While effective solutions to violent extremism encompass areas of policy that exceed AALCO's mandate, research into the legal dimensions of the problem reveal a recurring set of themes that are linked with the pillars of the UN Global Counterterrorism Strategy. The first theme recognizes the need to prevent conflicts that will engender and encourage widespread violent extremism by creating the economic and social conditions that promote radicalization amongst people affected by these conflicts. Additionally, addressing trans-border security threats such as terrorism financing, drug trafficking and organized crime are established means of combating terrorism that also find application in preventing radicalization and the spread of violent extremism.
35. Social and economic marginalization is one of the main contributing factors to the spread of violent extremism and radicalization. Inasmuch as it is legally possible, efforts must be made towards the alleviation and redressal of these factors through social inclusion, poverty reduction, and the realization of Sustainable Development Goals.
36. The promotion of tolerance and dialogue is connected with both human rights and social-inclusion aspects of CVE efforts. It is important that certain aspects of modern societies, particularly diversity and tolerance for diversity, are promoted. The promotion of tolerance and equality as well as the prevention of xenophobia and discrimination against people of

⁸ The Handbook is available at <http://www.unodc.org/pdf/criminal_justice/Handbook_on_VEps.pdf>

⁹ The Key Principles document is available at <http://www.unodc.org/pdf/criminal_justice/Summary-of-recommendations-on-VEps.pdf>

¹⁰ A/70/674.

different religions and ethnic groups is important to prevent the spread of violent extremist ideologies and radicalization through the engendering of hatred and mistrust.

37. Ensuring respect for and promoting human rights and the Rule of Law is both a means and an end. The promotion of respect for human rights is important for 3 main reasons. *Firstly*, The protection of the human rights of victims of violent extremism is important because violent extremism is itself often an attack on the fundamental human rights of persons. Stronger mechanisms to promote and protect the rights of vulnerable groups may lead to benefits in counter violent extremism measures. *Secondly*, due to the fact that the roots of violent extremism are embedded in conditions such as poverty and social exclusion, the protection and promotion of human rights, including economic, social, political, religious and other rights, works to counteract the onset of radicalization and the spread of violent extremism, as does the promotion of equality and non-discrimination. *Thirdly*, respect for human rights should also be an inherent part of the measures taken to counter violent extremism. Radicalization is a vicious cycle that may be continually propagated through the violation of rights by authorities. Respect and promotion of human rights is, despite being a fine balancing act, also an important part of efficient and effective counter-violent extremism measures.
38. The respect for and promotion of the Rule of Law is also important as violent extremism is, in addition to being an attack on fundamental human rights, an attack on the governance machinery of the individual States as well as the international legal order. Strengthening both the effectiveness of the domestic and international legal order, as well as increasing their visibility as fair and just systems and enhancing trust and transparency of the system, will be crucial to combating the viability of violent extremism as a perceived outlet against social injustice.
39. Ultimately, the eradication, or at least the mitigation, of violent extremism will require an all-of-society approach to the problem rather than just the criminalization of violent extremism. Achievement of this end-goal will require internal coordination between governmental bodies, civil society and the private sector, as well as international and regional cooperation between States.
40. The Secretariat has annexed the text of the Principles and Guidelines (ANNEX III) that were contained in the *Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations*—which formed the basis of the discussions at the two Inter-Sessional Meetings of Legal Experts held in 2016—for the consideration of the AALCO Member States and the Working Group to be convened at the Fifty-Sixth Annual Session.
41. Provisions relating to the definition of key terms, such as “Violent Extremism” and “Radicalization”, were originally included in the Preambular Paragraphs of the original *Draft Resolution* by the Secretariat as a means to understand and demarcate the legal aspects of the phenomenon of violent extremism and to interpret the Principles and Guidelines themselves. However, in light of the view of several Member States that any definitions for these terms are the domain of individual States, it is the Secretariat’s belief that the Principles and Guidelines contained within the Operative Paragraphs are capable of standing on their own without these definitions being included. It is the Secretariat’s opinion that the text of the Principles and Guidelines contained within ANNEX I appended herein might be of use to the AALCO Member States as the basis for a set of non-exhaustive general recommendations

that may serve as a point of reference for AALCO's Members in their fight against violent extremism.

42. Additionally, the Secretariat has also annexed, for the reference of the AALCO Member States and the Working Group, the text of the *Draft Resolution* as it exists after the two Inter-Sessional Meetings (ANNEX IV). This draft contains amendments that were made following the discussions and negotiations by the legal experts delegated by the AALCO Member States. It must be borne in mind that while many provisions and amendments found agreement among the legal experts, several provisions the document remains incomplete due to the curtailment of the negotiations at the second Inter-Sessional Meeting.
43. The Secretariat envisions two possibilities:
 - a. The adoption of the *Principles and Guidelines* as a non-exhaustive list of general non-binding recommendations rather than as an instrument *per se*; or,
 - b. The adoption of a completely new resolution on the topic.
44. The resolutions contained within ANNEX I and ANNEX II of this brief are identical in all respects with the exception of Operative Paragraph 1. OP 1 of ANNEX I contains a provision that may be used in the event that the Organisation decides in favour of adopting the Principles and Guidelines contained in ANNEX III of this brief. The resolution in ANNEX IV omits this paragraph. The Secretariat thus places these points as well as the annexed documents before the Organisation and the Working Group for their consideration.

ANNEX I

SECRETARIAT'S DRAFT
AALCO/RES/DFT/56/S8
5 MAY 2017

VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

The Asian-African Legal Consultative Organisation at its Fifty-Sixth Session,

Having considered Secretariat Document No. AALCO/56/NAIROBI/2017/SD/S8,

Having considered also the deliberations of the Working Group on Violent Extremism and Terrorism at this current Annual Session,

Noting with appreciation the introductory remarks of the Secretariat and the statements of the Member States during deliberations on “Violent Extremism and Terrorism (Legal Aspects)”,

Recalling its resolutions RES/53/SP2 of 18 September 2014, RES/53/S7 of 18 September 2014, RES/54/S9 of 17 April 2015, and RES/55/S9 of 16 May 2016,

Recalling also the discussions on the topic that took place at the two Inter-Sessional Meetings of Legal Experts on “Principles and Guidelines to Combat Violent Extremism and its Manifestations” on 28 and 29 January 2016 and 16 May 2016 respectively,

Mindful of the purposes and principles of the United Nations Charter,

Recollecting UN General Assembly Resolution—“A World against Violent Extremism” (A/RES/68/127) adopted by the General Assembly on 18 December 2013, UN Security Council Resolution 2178 (2014), UN Security Council Resolution 2199 (2015), and other relevant UN Security Council Resolutions,

Gravely concerned about the threats posed by acts of violence perpetrated by violent extremist and terrorist groups, particularly in the Asian-African region, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States, and desiring to put an end to such threats,

Dismayed by the upsurge in acts of violent extremism and terrorism in the Asian-African region, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States,

Strongly condemning any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,

Recognizing the complex and volatile nature of the phenomenon of violent extremism, and the need for a comprehensive, cooperative and coordinated solution to the problems posed by this phenomenon,

Recalling the international efforts to eliminate violent extremism and terrorism, and reaffirming the need to strengthen those efforts in accordance with the Charter of the United Nations, taking into account the principles of international law including non-interference, respect for sovereignty and territorial integrity of all states,

Reaffirming Member States' obligations under international law relating to international human rights law, international humanitarian law, and international criminal law, as well as their commitments and obligations under sectoral conventions on terrorism to prevent, suppress, investigate and prosecute crimes perpetrated by extremist individuals and groups,

1. **Adopts** the *AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations* as a set of non-exhaustive general recommendations that, among other things, may be useful to Member States in combating the threat of violent extremism;
2. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism and try to further develop legal instruments to combat violent extremism and terrorism;
3. **Urges** for action at the international, regional and bilateral level to fight impunity for acts of violent extremism and terrorism, *inter alia*, by adopting and implementing relevant national legislation, bilateral and multilateral instruments;
4. **Directs** the Secretariat to continue following developments in global and regional counter violent extremism and prevention of violent extremism efforts, as well as discussions on the matter at the international level;
5. **Decides** to place the topic on the provisional agenda of subsequent AALCO Annual Sessions as and when required;

ANNEX II

SECRETARIAT'S DRAFT
AALCO/RES/DFT/56/S8
5 MAY 2017

VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

The Asian-African Legal Consultative Organization at its Fifty-Sixth Session,

Having considered Secretariat Document No. AALCO/56/NAIROBI/2017/SD/S8,

Having considered also the deliberations of the Working Group on Violent Extremism and Terrorism at this current Annual Session,

Noting with appreciation the introductory remarks of the Secretariat and the statements of the Member States during deliberations on “Violent Extremism and Terrorism (Legal Aspects)”,

Recalling its resolutions RES/53/SP2 of 18 September 2014, RES/53/S7 of 18 September 2014, RES/54/S9 of 17 April 2015, and RES/55/S9 of 16 May 2016,

Recalling also the discussions on the topic that took place at the two Inter-Sessional Meetings of Legal Experts on “Principles and Guidelines to Combat Violent Extremism and its Manifestations” on 28 and 29 January 2016 and 16 May 2016 respectively,

Mindful of the purposes and principles of the United Nations Charter,

Recollecting UN General Assembly Resolution—“A World against Violent Extremism” (A/RES/68/127) adopted by the General Assembly on 18 December 2013, UN Security Council Resolution 2178 (2014), UN Security Council Resolution 2199 (2015), and other relevant UN Security Council Resolutions,

Gravely concerned about the threats posed by acts of violence perpetrated by violent extremist and terrorist groups, particularly in the Asian-African region, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States, and desiring to put an end to such threats,

Dismayed by the upsurge in acts of violent extremism and terrorism in the Asian-African region, which threaten the life and security of innocent people and impede the economic development and scientific activities of the concerned States,

Strongly condemning any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,

Recognizing the complex and volatile nature of the phenomenon of violent extremism, and the need for a comprehensive, cooperative and coordinated solution to the problems posed by this phenomenon,

Recalling the international efforts to eliminate violent extremism and terrorism, and reaffirming the need to strengthen those efforts in accordance with the Charter of the United Nations, taking into account the principles of international law including non-interference, respect for sovereignty and territorial integrity of all states,

Reaffirming Member States' obligations under international law relating to international human rights law, international humanitarian law, and international criminal law, as well as their commitments and obligations under sectoral conventions on terrorism to prevent, suppress, investigate and prosecute crimes perpetrated by extremist individuals and groups,

1. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism and try to further develop legal instruments to combat violent extremism and terrorism;
2. **Urges** for action at the international, regional and bilateral level to fight impunity for acts of violent extremism and terrorism, *inter alia*, by adopting and implementing relevant national legislation, bilateral and multilateral instruments;
3. **Directs** the Secretariat to continue following developments in global and regional counter violent extremism and prevention of violent extremism efforts, as well as discussions on the matter at the international level;
4. **Decides** to place the topic on the provisional agenda of subsequent AALCO Annual Sessions as and when required;

ANNEX III

AALCO PRINCIPLES AND GUIDELINES TO COMBAT VIOLENT EXTREMISM

I. Principles

1. *To adhere* to the principles enshrined in the United Nations Charter and to other principles of international law.
2. *To respect* the sovereignty, sovereign equality, political independence and territorial integrity of all States, particularly while combating violent extremism.
3. *To refrain*, in their international relations, from the threat or use of force against the territorial integrity or political independence of other States.
4. *To refrain* from intervening in matters within the domestic jurisdiction of any State, or in the political, social or cultural system of any State.
5. *To refrain* from organizing, instigating, assisting, financing or participating in acts of civil strife or terrorist acts in another State. or acquiescing in organized activities within its territory directed towards the commission of such acts.
6. *To endeavour* to settle their international disputes by peaceful means in accordance with the Charter.
7. *To endeavour* to hold non-State actors accountable for the commission of war crimes and crimes against humanity.
8. *To denounce* the illegitimate and unlawful acquisition of territory through violent means and the efforts to disintegrate States by violent extremist groups.
9. *To cooperate* in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial, ethnic, cultural, and religious discrimination.
10. *To recognize* that the practice of violent extremism cannot be justified by the teachings of any religion, faith, or other ideology.
11. *To recognize also* that violent extremism cannot be associated with any one race, religion, sect, nationality, culture, ethnicity, or any other such affiliation, and that the threat of violent extremism cannot be used as justification for the arbitrary targeting of, or discrimination against, members of any such affiliation.

II. Guidelines

1. *Cooperate* to identify the root causes of violent extremism and the drivers of radicalization, taking into account all elements leading to their emergence and spread, and take measures to address them.

2. *Abide* by their international and domestic human rights obligations in taking measures to protect the fundamental human rights of all persons, particularly their right to life, liberty, equality, religion and free speech, and the fundamental freedom from the arbitrary and unlawful infringements.
3. *Promote* the values of equality, diversity and tolerance for persons belonging to all races, religions, ethnicities, nationalities and cultures at the domestic, regional, and international levels.
4. *Amend or Adopt* legislation to suppress and counter harmful propaganda that instigates violence, xenophobia, racism and religious hatred.
5. *Coordinate* efforts, through the building of bilateral and multilateral intelligence, information, and knowledge-sharing networks to identify violent extremist groups and individuals, monitor their activities, and provide options to counter the threat posed by them.
6. *Refrain* from committing or acquiescing in any acts aimed at organizing, supporting or financing violent extremist groups, or from inciting violent extremism or terrorism.
7. *Prevent* groups and individuals engaged in acts of violent extremism from finding safe havens within their territories.
8. *Criminalize* the existence of violent extremist groups and membership in such groups.
9. *Suppress* the funding of violent extremist groups, through illegal means such as, *inter alia*, money laundering and the trafficking of artifacts, as well as the conduct of trade and commerce with such groups, by introducing and enforcing necessary legal measures.
10. *Institute* legal and executive frameworks to avert the activities of violent extremist groups and individuals, and limit the influence of these groups and individuals.
11. *Recognize* the impact of the use of the internet as a tool for radicalization, for the propagation of violent extremist ideologies, for recruitment to violent extremist causes, and for the incitement of violence, in order to adopt internet governance legislation, while also protecting the internet's status as an integral platform for the peaceful exchange of knowledge, ideas and opinions.
12. *Take* appropriate measures to prosecute crimes constituting manifestations of violent extremism, as well as effect prosecution through extradition under bilateral and multilateral treaties, judicial cooperation and mutual legal assistance.
13. *Recognize* the need for the de-radicalization of violent extremists in order to counteract the threat of radicalization, and take measures, in accordance with national laws and regulations, to effect de-radicalization through, *inter alia*, rehabilitation and reintegration of prisoners.
14. *Cooperate* to expedite the negotiation and conclusion of the Draft Comprehensive Convention on International Terrorism taking into account the urgent need to strengthen the international legal framework aimed at combating terrorist acts as manifestations of violent extremism.
15. *Take* all necessary measures toward the implementation of international anti-terrorism obligations, where appropriate, into domestic and regional legal systems.

16. *Cooperate and participate* in the creation, if necessary, of regional or inter-regional instruments to combat violent extremism and its manifestations.

ANNEX IV

DRAFT [RESOLUTION] ON AALCO [PRINCIPLES AND GUIDELINES]/[GUIDING PRINCIPLES] TO COMBAT VIOLENT EXTREMISM AND ITS MANIFESTATIONS

The Asian-African Legal Consultative Organization at its [Fifty-Fifth] Annual Session,

Recalling its resolution on “Violent Extremism and Terrorism (Legal Aspects)” (AALCO/RES/54/S9) adopted at the Fifty-Fourth Annual Session, 2015,

Mindful of the purposes and principles of the United Nations Charter,

Recollecting the UN General Assembly Resolution—“A World against Violent Extremism” (A/RES/68/127) adopted by the General Assembly on 18 December 2013, as well as UN Security Council Resolution 2178 (2014), UN Security Council Resolution 2199 (2015), and other relevant UN Security Council Resolutions,

Noting instruments adopted, to combat terrorism, at the international level by the United Nations, as well as at the regional level by organizations such as the African Union, the Association of South East Asian Nations, the Organization of Islamic Cooperation, South Asian Association for Regional Cooperation, [**Council of Europe**],

[Defining “Violent Extremism”, unless otherwise provided by their respective national legislations, and only for the purpose of this document, as the instigation or support of acts of violence through the malicious invocation or propagation of religious teachings, faith or any other beliefs conducive to intolerance or hatred in the pursuit of ideological, political or other goals,]

[Acknowledging that the manifestations of acts of violence instigated by violent extremism may, *inter alia*, include heinous and other serious crimes such as acts of terrorism, war crimes, or crimes against humanity,]

[Defining “Violent Extremist Groups” as groups of persons engaged in the organized or widespread practice of violent extremism,]

Noting the adverse effects of violent extremism on international peace, security and economic stability on the global, regional and national levels, particularly in the Asian and African regions,

Gravely concerned about the increasing brutality of acts perpetrated by extremist individuals and groups against human beings, particularly women and children in diverse parts of the world, as well as the escalation in attacks on nationals of Member States,

Observing that violent extremism constitutes a grave violation of human rights and also constitutes an attack on the primacy of the rule of law,

Reaffirming Member States' obligations under international law relating to international human rights law, international humanitarian law, and international criminal law, as well as their commitments and obligations under sectoral conventions on terrorism to prevent, suppress, investigate and prosecute crimes perpetrated by extremist individuals and groups,

Reiterating that there is no justification for violent extremism [**whatever the causes or motivation**],

Acknowledging the threat of radicalization *inter alia* in its violent forms, and the role of extremist individuals and groups in the process of radicalization,

Recognizing the complex and volatile nature of the phenomenon of violent extremism, and the need for a comprehensive, cooperative and coordinated solution to the problems posed by this phenomenon,

Hereby adopts the following [**Principles and Guidelines**] with the purpose to combat violent extremism:

I. Principles

Member States of AALCO [**should**]/[**are encouraged to**]:

1. *Adhere* to the principles enshrined in the United Nations Charter and to other relevant principles of international law.
2. *Respect* the sovereignty, sovereign equality, political independence and territorial integrity of all States.
3. *Refrain*, in their international relations, from the threat or use of force against the territorial integrity or political independence of any State.
4. *Refrain* from intervening in matters within the domestic jurisdiction of any State.

5. *Refrain* from organizing, instigating, assisting, financing or in any other manner supporting acts of violent extremism or terrorist acts in another State, or **[acquiescing in]** activities within its territory directed towards the commission of such acts.
6. *Endeavour* to settle their international disputes by peaceful means in accordance with the United Nations Charter.
7. *Endeavour* to hold **[non-State actors]/[extremist individuals and groups]** accountable for the commission of crimes by them **[including war crimes, crimes against humanity]**.
8. *Denounce* the illegitimate and unlawful acquisition of territory by extremist groups as well as any efforts to disintegrate States by these groups.
9. **[Promote/Observe]** universal respect for, and observance of, human rights and fundamental freedoms for all, and the elimination of all forms of racial, ethnic, cultural, and religious discrimination.
10. *Recognize* that the practice of violent extremism runs contrary to any religion or faith, and cannot be justified by any ideology.
11. *Recognize also* that violent extremism should not be associated with any race, religion, nationality, culture, ethnicity, or any other such affiliation, and denounce the arbitrary and unlawful targeting of, or discrimination against, members of any such affiliation.

II. Guidelines

Member States of AALCO endeavor to:

1. *Identify* the **[root causes]/[drivers and elements]** of violent extremism and radicalization **[, including unresolved conflicts,] [at the local and international level] [, taking into account all elements leading to their emergence and spread]**.
2. *Abide* by their international and domestic human rights obligations relevant to the protection of the fundamental human rights and freedoms of all persons.
3. *Promote* the values of equality, diversity and tolerance for all persons without discrimination on the basis of race, religion, ethnicity, or nationality and culture at the domestic, regional and international levels.

4. *Amend or Adopt* necessary legislations to deal with practices that instigate violence, xenophobia, racism and religious hatred.
5. *Encourage*, in accordance with their respective laws and regulations and policies, intelligence, information, and knowledge-sharing, anti-terrorism policy dialogues and law enforcement cooperation, to identify violent extremist individuals and groups, monitor their activities, and provide options to counter the threat posed by them.
6. *Refrain* from committing or acquiescing in any acts aimed at organizing, supporting or financing violent extremist groups, or from inciting violent extremism **[and its manifestations]/[or terrorist acts]**.
7. *Take effective measures* to prevent extremist individuals and groups from finding safe havens within their territories.
8. **[Consider criminalizing the existence of violent extremist groups and membership in such groups in accordance with national laws and regulations.]**
9. *Suppress* the funding of violent extremist groups through, *inter alia*, money laundering and the trafficking of artifacts, as well as the conduct of trade and commerce with such groups, by introducing and enforcing necessary legal measures.
10. *Establish* necessary legal and implementation frameworks to avert and deal effectively with the activities of violent extremist individuals or groups, and to eliminate the influence of these individuals or groups.
11. **[Take appropriate measures to stop the use of the internet and social media as a tool for radicalization, for the propagation of violent extremist of violent extremist ideologies, for recruitment to violent extremist causes, and for the incitement of violence, while also protecting the fundamental rights, including freedom of speech, right to access to information.]**
12. **[Take appropriate measures to prosecute the acts of violent extremism, as well as to cooperate in the extradition of offenders thereof for criminal trial under applicable bilateral and multilateral treaties, and to assist in investigations and criminal proceedings through mutual legal assistance as appropriate, in accordance with international obligations as well as national laws and regulations of Member States.]**
13. *Recognize* the need for the de-radicalization of violent extremists in order to counter the threat of radicalization, and take measures, in accordance with

national laws and regulations, to effect de-radicalization through, *inter alia*, rehabilitation and reintegration of radicalized persons, including those in prison.

14. *Cooperate* to expedite the negotiation and conclusion of the Draft Comprehensive Convention on International Terrorism.
15. *Take* the necessary measures to carry out their international anti-terrorism obligations through their domestic legal systems.
16. *Cooperate and participate* in the creation, if necessary, of regional or inter-regional instruments to combat violent extremism [**and its manifestations**].

ANNEX IVA:
Provisions Proposed by Member States

- 11 Bis.** *Enhance* international cooperation in combating the use of the internet for the purpose of violent extremism. (China)

- 17.** *Acknowledge* that there is no one-size-fits-all approach in countering violent extremism. (Turkey)

- 18.** *Encourage* scientific research that would help governments better understand drivers of radicalization. (Turkey)

- 19.** *Establish* comprehensive national strategies/programmes based on “whole of government” and “whole of society” approach, by taking into account the local drivers of radicalization. (Turkey)

- 20.** *Institute* effective coordination mechanisms which involve all actors that play a role in implementing national CVE programmes, including, but not limited to the security agencies, development institutions, health workers, religious authorities and educational institutions. (Turkey)