

SUMMARY REPORT
OF THE AALCO INTER-SESSIONAL MEETING OF LEGAL EXPERTS ON VIOLENT
EXTREMISM AND ITS MANIFESTATIONS
28-29 January 2016. New Delhi, India

A. INTRODUCTION

1. **24** Member States of the Asian-African Legal Consultative Organization (AALCO) participated in the “Inter-Sessional Meeting of Legal Experts on Violent Extremism and its Manifestations” namely, **Arab Republic of Egypt, Brunei Darussalam, People's Republic of China, Cyprus, Ghana, India, Indonesia, Islamic Republic of Iran, Republic of Iraq, Kenya, State of Kuwait, Malaysia, Union of Myanmar, Sultanate of Oman, Pakistan, State of Qatar, Kingdom of Saudi Arabia, Singapore, State of Palestine, Republic of the Sudan, Syrian Arab Republic, Republic of Turkey, United Arab Emirates, and Republic of Yemen.**¹
2. Representatives of the **International Committee of the Red Cross (ICRC) (Regional Delegation, New Delhi)** were also present at the inaugural session.
3. The Session commenced on 28 January 2016 with **H.E. Prof. Dr. Rahmat Mohamad**, Secretary-General of the Asian-African Legal Consultative Organization (AALCO) welcoming all the delegations to New Delhi. He addressed the Secretariat’s motivation in drafting the resolution on violent extremism and its basis in the mandate received from Member States at the Fifty-Fourth Annual Session. He also stressed upon the necessity of Asian-African guidelines with a basis in international law to effectively address the problems of violent extremism and its manifestations.
4. He then invited the Attorney-General of Malaysia, **H.E. Tan Sri Dato Sri Hj Mohamed Apandi Bin Haji Ali**, to deliver the keynote address. In his speech, the Attorney-General of Malaysia stressed the importance of having a legal framework in order to combat violent extremism as well as terrorism. He ended his speech by stressing that it is the

¹ **Japan**, while not in attendance, submitted written comments to the Secretariat prior to the Meeting, which were duly distributed to all attending delegates.

responsibility of the international community to curb any environment or climate that condones acts of extremism, as extremism knows no religion, race or color.

B. GENERAL COMMENTS

5. The delegate of the **Republic of India** raised concerns over the increasingly frequent occurrence of extremism across the world especially in the African and Asian regions. He agreed that there is significant value to the guidelines in combating violent extremism, as the existing regime of international law does not provide any definition for violent extremism.
6. The delegate from the **Islamic Republic of Iran** expressed optimism that the discussions would contribute to further strengthening the legal arsenal in combating violent extremism. He also believed that violent extremism could be eradicated through a legal framework that focuses on addressing the instigation, aid and financing of violent extremism.
7. The delegate from the **Republic of Turkey** believed that governments are obliged to provide an environment that does not nurture radicalization. He also believed that there is a responsibility on the international community to shift the paradigm away from linking violent extremism primarily to the Islamic community.
8. The delegate from **People's Republic of China** expressed that violent extremism should not be associated with any religion, nationality or ethnicity. He stressed that the international community should implement Security Council resolutions in combating violent extremism.
9. The delegate of **Malaysia** pointed out that the term “violent extremism”, much like the term “terrorism” does not have an accepted definition in international law and welcomed the efforts of the AALCO Secretariat to define this term in the draft resolution. He also emphasized the importance of joint efforts by the international community in combating violent extremism.
10. The delegate from the **State of Kuwait** noted that the duty to curb violent extremism does not solely lie on the government, but also on the community, religious authorities, and corporations, and that they should all work jointly in remedying the situation.

11. Before the substantive discussions began, **People’s Republic of China** proposed **Republic of Ghana** to be the chair of the meeting, and this motion was supported by **Malaysia, Republic of Kenya** and **Republic of India**. **India** proposed **China** to be the vice chair of the meeting and the motion was supported by **Malaysia**.

C. PREAMBLE

12. At the outset, while deliberating on the preambular paragraphs of the proposed draft some delegates suggested including references to the work of the South Asian Association for Regional Cooperation (SAARC), the Council of Europe and the European Union. References to the European Union and Council of Europe were initially opposed by a few delegates as those bodies are outside the Asian-African region. Eventually it was agreed not to include a reference to the European Union but there was no consensus on whether to include a reference to the Council of Europe.

Preamble IV: *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 Southeast Asian Nations, the Organization of Islamic Cooperation, South Asian Association for Regional Cooperation, [**Council of Europe,**]²

13. The floor was divided between two sentiments on whether or not to include a definition for violent extremism in the draft resolution. Several delegates cited the UN Secretary-General’s 2015 *Plan of Action to Prevent Violent Extremism*, which maintained that defining violent extremism is the individual prerogative of every State and noted that this would allow the legal framework to operate with greater flexibility. On the other hand, it was also posited by some delegates that it is crucially important to define violent extremism in order to interpret and apply a practical legal framework. The Secretariat proposed a saving clause specifying that the definition is only applicable to the draft and only in cases where violent extremism is not defined in national legislation. However, the

² The original text is read as, *Acknowledging 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 Southeast Asian Nations, and the Organization of Islamic Countries*

provision, including the amendment, was not agreed to and has been entirely bracketed for future consideration.

Preamble V: [*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,*]³

14. Some delegates believed that “heinous and other serious crimes” should be added to the last part of the sixth preambular paragraph as “war crimes” and “crimes against humanity” are defined by the Geneva Convention and ICC Statute; to which not all AALCO Member States are parties. Another concern was that if the term “serious crimes” is used alone, it might exclude terrorism as, according to the ICC statute, “serious crimes” only include war crimes, genocide and crimes against humanity.

Preamble VI: [*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,*]⁴

15. A delegate strongly felt that the term “global level” should be replaced in the eighth preambular paragraph, as it did not effectively convey the extent and reach of violent extremism, by the phrase “global, regional and national levels”. Furthermore, “economic stability at national level” was proposed to be included as one of the aspects that may be adversely affected by violent extremism.

³ The original text is read as, *Defining “Violent Extremism” 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,*

⁴ The original text is read as, *Acknowledging that the manifestations of acts of violence instigated by violent extremism may, inter alia, include serious crimes such as acts of terrorism, war crimes, or crimes against humanity,*

Preamble VIII: *Noting* the adverse effect of violent extremism on international peace, security and economic stability on the global, regional and national levels, particularly in the Asian and African regions,⁵

16. One delegate stated that radicalization in all forms poses a threat to society and the threat is not restricted to the violent personification of radical intent.

Preamble XIII: *Acknowledging* the threat of radicalization *inter alia* in its violent forms, and the role of extremist individuals and groups in the process of radicalization,⁶

D. PRINCIPLES

17. Although the Draft Resolution is regarded as soft law, there was an issue with the wording of the chapeau element of the principles.⁷ One delegate proposed to substitute the word “should” with “are encouraged to”, in order to make the principles persuasive instead of binding. However another delegate stated that the position of the principles should not be soft, because all principles present in the Draft Resolution are core principles of international law and therefore the stronger term “should” ought to be used.

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

18. On the contents of the Principles, firstly, there was a lengthy discussion amongst the delegates on the issue of sovereignty, territorial integrity and political independence of the Member States. A delegate emphasized the need to amend the wording in the paragraph 2 of the Principles to protect State sovereignty, territorial integrity, and political independence in all circumstances, not just in cases of violent extremism.

⁵ The original text is read as, *Noting the adverse effects of violent extremism on international peace, security and stability on a global level, which is particularly keenly felt in the Asian and African regions,*

⁶ The original text is read as, *Acknowledging the threat of radicalization in its violent forms, and the role of violent extremist groups and individuals in the process of radicalization,*

⁷ *Member States of AALCO should:*

Principle 2: *Respect* the sovereignty, sovereign equality, political independence and territorial integrity of all States.⁸

19. Furthermore, in reference to paragraph 3 of the Principles, there were discussions on strengthening the wording of the paragraph, as one delegate proposed an amendment to protect all States against the threat or use of force against the territorial integrity or political independence of any State.

Principle 3: *Refrain*, in their international relations, from the threat or use of force against the territorial integrity or political independence of any State.⁹

20. In the discussions relating to paragraph 4 of the Principles, on refraining from intervening in matters of domestic jurisdiction of any State, a delegate suggested more terms should be added to the categories mentioned in the paragraph to include additional areas such as economic matters. Another issue that was raised was regarding the usage of the words “and” or “or”. One delegate suggested that the word “or” should be replaced with “and”. However another Member State opposed the proposal, as the change would cause the paragraph to be read conjunctively instead of disjunctively, which would be counterintuitive. Eventually, the scope of the provision was widened by simply using the term “within the jurisdiction of any State”, as suggested by the Secretariat, and this was agreed by the delegates.

Principle 4: *Refrain* from intervening in matters within the domestic jurisdiction of any State.¹⁰

21. In paragraph 5 of the Principles, concerning the issue of silent support or acquiescing in violent extremist activities by States in their own territories, many issues were raised by the delegates. Besides some arguments over the definition of “violent extremism” and a few grammatical amendments, many delegates requested that stronger and wider terms should be used in order to strengthen the protection conferred by the paragraph. One

⁸ The original text is read as, *Respect the sovereignty, sovereign equality, political independence and territorial integrity of all States, particularly while combating violent extremism,*

⁹ The original text is read as, *Refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of other States,*

¹⁰ The original text is read as, *Refrain from intervening in matters within the domestic jurisdiction of any State, or in the political, social or cultural system of any State.*

delegate suggested replacing the word “participating” with the phrase “or in any other manner supporting”, and the suggestion found both support and resistance. Furthermore, a delegate wanted to replace the term “civil strife” with the phrase “violent extremism in their own or another State’s territory”. A delegate requested the deletion of the word “organized” as it will place a burden on Member States in prosecuting such crimes, as they would have to prove this additional element. One of the major issues raised was regarding the usage of the word “acquiescing”. One delegate proposed its deletion as it creates too low a threshold. Despite the explanation given by the Secretariat that the usage and meaning of the word was taken from the UN Declaration on Friendly Relations Between States, which was supported by some delegates, the usage of the word “acquiescing” could not be agreed upon by all delegates.

Principle 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.¹¹

22. A lengthy discussion emerged in paragraph 7 of the Principles among the delegates on the issues of accountability and responsibility of non-State actors in the commission of crimes and the types of crimes to be mentioned. Initially, the types of crimes mentioned were “war crimes” and “crimes against humanity”, which delegates unanimously agreed to replace with the general term “crimes”. There was also a discussion on whether the term “non-State actors” should be replaced with the term “extremist groups and individuals”. The terms “war crimes” and “crimes against humanity” were put into brackets due to concerns about the obligations of Member States to enact legislation to deal with those crimes.

¹¹ The original text is read as, *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.*

Principle 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].*¹²

23. In paragraph 8 and paragraph 10 of the Principles, the scope of the issue of violent extremism was discussed while in paragraph 9 of the Principles, the legal effect of the Principle upon Member States was brought to attention. Delegates discussed the usage of the term “violent means” in paragraph 8 of the Principles while on the other hand one delegate suggested that the paragraph is redundant as paragraph 2 of the Principles would serve the same purpose. The delegates eventually agreed that paragraph 8 is relevant and distinct enough from paragraph 2 of the Principles to be retained.
24. In paragraph 9 of the Principles, the term “cooperate” was proposed to be replaced with the word “promote”. Alternatively, the term “observe” was also suggested, as not all Member States are parties to the respective conventions or instruments. As there was no consensus about the use of the terms, they were put in brackets.
25. The delegates then discussed the term “teachings” in paragraph 10 of the Principles. The term “ideology” was requested to be separated from the term “religion” or “faith”. A delegate highlighted that the teachings of religion and faith is contextually important to violent extremism. Eventually, the term “teachings” was removed, and the phrase “justified by any ideology” was added to the paragraph.

Principle 8: *Denounce the illegitimate and unlawful acquisition of territory by extremist groups as well as any efforts to disintegrate States by these groups.*¹³

Principle 10: *Recognize that the practice of violent extremism runs contrary to any religion or faith, and cannot be justified by any ideology.*¹⁴

Principle 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.*¹⁵

¹² The original text read as, *Endeavour to hold non-State actors accountable for the commission of war crimes and crimes against humanity.*

¹³The original text read as, *Denounce the illegitimate and unlawful acquisition of territory through violent means and the efforts to disintegrate States by violent extremist groups.*

¹⁴The original text read as, *Recognize that the practice of violent extremism cannot be justified by the teachings of any religion, faith, or other ideology.*

E. GUIDELINES

a) Collective Responsibility of AALCO Member States

26. One of the main issues that was discussed was the collective responsibility of Member States. Regarding paragraph 5 of the Guidelines, a delegate proposed amending the paragraph to widen the scope of cooperation between States to include both informal and formal measures. Meanwhile, another delegate proposed three additional terms such as “anti-terrorism positive dialogues”, “law enforcement cooperation” and “regulating international fund cooperation”. Upon the suggestion of the Secretariat, international fund cooperation was not added to the paragraph as economic measures and cooperation were dealt with in paragraph 9¹⁶ of the Guidelines

Guideline 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.¹⁷

27. Paragraph 7¹⁸ touched upon the concept of safe haven, and the Secretariat stated that the purpose of paragraph 7 is to prevent terrorists from finding safe haven in territory of Member States, thus requiring international cooperation. Several delegates, in reference to paragraph 7 also repeatedly expressed their concerns about the misunderstanding of the phrases “violent extremism” and “violent extremist act”.

¹⁵ The original text read as, *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.*

¹⁶ The original text is read as, *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*

¹⁷ The original text is read as, *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.*

¹⁸ The original text is read as, *Prevent groups and individuals engaged in acts of violent extremism from finding safe havens within their territories.*

Guideline 7: *Take* effective measures to prevent extremist individuals and groups from finding safe havens within their territories.

28. Furthermore, in paragraph 14¹⁹, one delegate suggested that the term “by consensus” be included in the text of the paragraph, but this was opposed by several delegates. Eventually the wording of the paragraph was agreed to without the inclusion of the term “by consensus” and the first delegate lodged a reservation against the paragraph pending further instructions from his capitol.

Guideline 14: *Cooperate* to expedite the negotiation and conclusion of the Draft Comprehensive Convention on International Terrorism.

29. An issue that was paramount to the discussion was on the definitions of terms used in the draft resolution. A few delegates proposed omitting the term “terrorism” from paragraph 6²⁰ on the grounds that there is no accepted definition for the term. An alternative proposal was to replace the word “terrorism” with the term “terrorist acts”. Another delegate suggested keeping the original term “violent extremism” despite the absence of an agreed upon definition.

Guideline 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**].

b) Domestic Implementation

30. The last issue that was covered during the discussions was the implementation of the draft resolution within the domestic jurisdiction of Member States. Delegates disagreed about the necessity of paragraph 8²¹ while some proposed that it be deleted others

¹⁹ The original text is read as, *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.*

²⁰ The original text is read as, *Refrain from committing or acquiescing in any acts aimed at organizing, supporting or financing violent extremist groups, or from inciting violent extremism or terrorism.*

²¹ The original text is read as, *Denounce the illegitimate and unlawful acquisition of territory through violent means and the efforts to disintegrate States by violent extremist groups.*

maintained that it should be retained. Eventually it was concluded that the entire paragraph should be put in brackets.

Guideline 8: [*Consider criminalizing the existence of violent extremist groups and membership in such groups in accordance with national laws and regulations.*]

31. In paragraph 4²² of the guidelines, a delegate was not amenable to the wording as it obligates Member States to amend State legislation pertaining to criminal offences at national level. The Secretariat responded that the Guidelines were not intended to be binding and did not create binding obligations on Member States.

Guideline 4: *Amend or Adopt* necessary legislations to deal with practices that instigate violence, xenophobia, racism and religious hatred.

32. Next in paragraph 10²³, a delegate enquired about whether the word “executive framework” is sufficient to cover all aspects of domestic administration and implementation. After discussions, the delegates agreed to the Secretariat’s proposal to replace the term “executive” with “implementation”.

Guideline 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.

33. Next, in paragraph 11²⁴, a question was directed to the Secretariat about whether the paragraph creates an obligation for States to have specific legislation addressing the use of the internet by terrorists. In response, the Secretariat clarified that what matters is the achievement of the aim of the paragraph, which is to prevent the use of the internet for acts of violent extremism and that specific legislation was not necessary. Another delegate proposed an entirely different formulation of the paragraph, which was

²² The original text is read as, *Amend or Adopt legislation to suppress and counter harmful propaganda that instigates violence, xenophobia, racism and religious hatred.*

²³ The original text is read as, *Institute legal and executive frameworks to avert the activities of violent extremist groups and individuals, and limit the influence of these groups and individuals.*

²⁴ The original text is read as, *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.*

eventually chosen as the one to be discussed. This proposal originally replaced the term “internet” with “social media”, but after discussions both terms were included. Additionally, another delegate suggested adding a provision that addressed and enhanced international cooperation in combating the use of the internet for the purpose of extremism. At the end of the discussion, one delegate asked for the entire paragraph to be placed in brackets for future discussion due to the importance of the provision.

Guideline 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.]

34. Regarding paragraph 12²⁵, one delegate expressed his concerns over this paragraph, as his country is sensitive to the treatment given to offenders post-extradition and that extradition is problematic because the death penalty is practiced by some Member States. Another delegate suggested to add the wordings of “in accordance to domestic law” and was supported by other delegates. It was also decided to put paragraph 12 in bracket in order for the delegates to reflect on the paragraph and agree on its wording at a later time.

Guideline 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.]

²⁵ The original text is read as, *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.*

35. Lastly, paragraph 13²⁶ dealt with the aspect of de-radicalization through rehabilitation. A delegate raised the issue that Member States utilize different rehabilitation practices based on their respective national legislations. The delegate therefore asked for the paragraph to be deleted. Another delegate however insisted on keeping the paragraph and advised the Member States to be active in de-radicalization through rehabilitation. It was eventually agreed to retain the paragraph.
36. One delegate proposed that the paragraph be amended to include all radicalized persons, including prisoners, rather than focusing only on prisoners. Another delegate reminded the other delegates to be mindful of the existence of 2 categories of prisoners in this context, i.e. radicalized persons who are imprisoned and persons who become radicalized in prison. He stressed that the paragraph needs to address the rehabilitation and reintegration of both types of prisoners.

Guideline 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.*

37. The delegates from **Turkey** and **China** submitted to the other delegates, for their consideration, the text of possible additional provisions. The Secretariat proposed to append these additional provisions as an annex to the revised text of the draft and distribute them to all Member States. This was amenable to the delegates in question and agreed to by all delegates present.

F. FUTURE COURSE OF ACTION

38. At the end of the Meeting the Chairperson broached the topic of future meetings to finalize the Principles and Guidelines. The delegates agreed that time was needed by all parties to consider the revised text and that an additional inter-sessional meeting before the Annual Session would not be feasible. It was thereafter agreed that the follow-up

²⁶ The original text is read as, *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.*

meeting should take place at the Annual Session where States would be able to send delegates to discuss the revised text and decide on whether to present it as a resolution to the plenary.

39. The Meeting was thereafter adjourned.