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ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

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I. INTRODUCTION

1. Terrorism has emerged as a global scourge, inflicting immense suffering and posing significant challenges to nations worldwide. Asian and African States, in particular, have been grappling with the devastating consequences of terrorist activities. The international community has recognised the urgent need to address this menace through concerted efforts and robust legal frameworks. In response, international law has evolved to combat terrorism, primarily through the adoption of sectoral and regional conventions.

2. These legal instruments aim to strengthen cooperation among States, harmonise domestic legislation, and establish effective mechanisms for preventing and punishing terrorist acts. The sectoral conventions focus on specific aspects of terrorism, such as the 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, the 1979 International Convention against the Taking of Hostages, the 1980 Convention on the Physical Protection of Nuclear Material, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection, the 1997 International Convention for the Suppression of Terrorist Bombings, the 1999 International Convention for the Suppression of the Financing of Terrorism, and the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism.¹

3. Regional conventions, on the other hand, address the unique challenges faced by countries within a particular geographic area, fostering collaboration and information sharing among neighbouring States. These include the 1971 OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, the 1977 European Convention on the Suppression of Terrorism,

¹ See United Nations Treaty Collection, Text and Status of the United Nations Conventions on Terrorism <https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml> accessed 7 August 2024

the 1987 SAARC Regional Convention on Suppression of Terrorism, the 1998 Arab Convention on the Suppression of Terrorism, the 1999 Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism, the 1999 Convention of the Organization of the Islamic Conference on Combating International Terrorism, the 1999 OAU Convention on the Prevention and Combating of Terrorism, the 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism, the 2002 Inter-American Convention Against Terrorism, and others.

4. The issue of “International Terrorism” was first introduced to AALCO’s agenda during its Fortieth Session in New Delhi, India, in 2001, following a proposal by the Government of India. The inclusion of this topic was deemed valuable, especially in light of ongoing negotiations within the United Nations Ad hoc Committee aimed at formulating the Comprehensive Convention on International Terrorism (CCIT). Subsequently, at the Forty-First Annual Session in Abuja, Nigeria, in 2002, AALCO, in collaboration with the Office of the High Commissioner for Human Rights (OHCHR), organised a comprehensive Special Meeting on “Human Rights and Combating Terrorism.” In the following sessions, AALCO’s Secretariat was tasked with monitoring and reporting on the progress of the CCIT negotiations and conducting an in-depth study on the subject. This led to the publication of “A Preliminary Study on the Concept of International Terrorism” by AALCO’s Centre for Research and Training (CRT) in 2006.

5. In response to the increasing atrocities committed by extremist groups across Africa, Asia, and the Middle East, the topic was revised to “Violent Extremism and Terrorism (Legal Aspects)” at the request of the Islamic Republic of Iran. This revised topic was introduced into AALCO’s agenda during the Fifty-Third Annual Session held in Tehran, in 2014. This session also featured a Half-Day Special Meeting dedicated to the topic. The inclusion of the revised topic followed the unanimous adoption of UN General Assembly Resolution 68/127, titled “A World Against Violence and Violent Extremism,” on 18 December 2013. This resolution strongly condemned all forms of violent extremism, denounced sectarian violence, and emphasised the need for a comprehensive approach to countering violent extremism by addressing its root causes. Shortly thereafter, on 24 September 2014, the UN Security Council adopted Resolution 2178, co-sponsored by over 100 States, which highlighted the importance of addressing the threat posed by foreign terrorist fighters and enhancing international cooperation.

6. The Fifty-Third Annual Session also included a Half-Day Special Meeting on “Violent Extremism and Terrorism (Legal Aspects),” resulting in the adoption of Resolution AALCO/RES/53/SP2. This resolution directed the AALCO Secretariat to organise inter-sessional expert meetings to develop AALCO principles for combating violent extremism, potentially leading to the drafting of Asian-African guidelines on the issue. This directive was reaffirmed in Resolution AALCO/RES/54/S9 during the Fifty-Fourth Annual Session in Beijing, China, in 2015. In line with these directives, the AALCO Secretariat convened two Inter-Sessional Meetings of Legal Experts on Violent Extremism and its Manifestations in January and May 2016. During these meetings, legal experts from AALCO Member States reviewed the Secretariat’s draft on “Principles and Guidelines to Combat Violent Extremism and its Manifestations.”

7. Following the second Inter-Sessional Meeting in May 2016 and the Fifty-Fifth Annual Session, the AALCO Secretariat was instructed, through Resolution AALCO/RES/55/S9, to prepare a report on ongoing discussions about violent extremism at the United Nations. This report was presented at the Fifty-Sixth Annual Session held in Nairobi in 2017 and discussed by a Working Group convened for this purpose. Additionally, the Secretariat was tasked with drafting a resolution based on feedback from AALCO Member States during the Inter-Sessional Meetings, to be deliberated by the Working Group. The resolution adopted at the Fifty-Sixth Session acknowledged the discussions from the Inter-Sessional Meetings and the Working Group on Violent Extremism and Terrorism, and recognised the Secretariat’s efforts in developing principles and guidelines to combat violent extremism and its manifestations.

8. In July 2024, the Government of the Islamic Republic of Iran and AALCO jointly organized a two-day "AALCO Regional Conference on Preventing and Countering Terrorism" in Tehran. The conference brought together 70 participants, including representatives from AALCO Member States, the AALCO Secretariat, United Nations Office on Drugs and Crime (UNODC), Shanghai Cooperation Organization (SCO), African Union (AU), and academia. The event featured an inaugural segment with keynote addresses and special remarks from high-level officials, followed by panel discussions on themes such as “Preventing and Countering Terrorism,” “Role of International and Regional Organizations in Preventing and Countering Terrorism,” and “State and Individual Responsibility for Terrorism.” AALCO Secretary-General Dr. Kamalinne Pinitpuvadol highlighted the organization's role as an Asian-African platform for capacity-building and sharing best practices on the international law of

counter-terrorism. The conference provided a platform for lively exchanges between panelists and participants, contributing to the ongoing dialogue on combating international terrorism.

9. The upcoming Sixty-Second Annual Session in Bangkok, Kingdom of Thailand, will provide an opportunity to further these efforts and explore new avenues for collaboration and action against violent extremism and terrorism.

II. TOPICS FOR FOCUSED DELIBERATION

10. In the following sections of the brief, the Secretariat of AALCO raises the following topics for the discussions of the Member States under this item of the Sixty-Second Annual Session:

1. Online Radicalisation and International Legal Measures

The rapid advancement of social media has significantly impacted the international security landscape. This topic will focus on how it can be both a tool for and a target of terrorist activities and the international legal responses to it. Discussions at the Annual Session may explore the legal measures necessary to regulate and counter the misuse of technologies such as the Internet and social media. Further, the role of international cooperation in developing and implementing these legal measures may be a key point of deliberation.

2. *Jus ad Bellum* and *Jus in Bello* to Address International Terrorism

The principles of *jus ad bellum* (the right to war) and *jus in bello* (the law in war) are fundamental to international law. This topic will examine how these principles apply to the context of international terrorism. Member States may deliberate on the legal justifications for the use of force against non-state actors and the legal constraints on such use of force. The discussions may also address the challenges of applying these principles in asymmetric warfare, where state actors confront non-state terrorist groups.

11. This focus on the Internet and social media, and the principles of *jus ad bellum* and *jus in bello* is in consonance with the proposal of the Islamic Republic of Iran, which emphasises these issues in its explanatory note (Annex-1). By addressing these critical areas, the Sixty-

Second Annual Session may contribute to enhancing the legal frameworks and cooperative efforts needed to effectively combat international terrorism.

III. RECENT DEVELOPMENTS IN THE UNITED NATIONS

A. Eighth Biennial Review of the United Nations Global Counter-Terrorism Strategy

12. The United Nations Global Counter-Terrorism Strategy² stands as a unique global instrument designed to bolster national, regional, and international efforts to counter terrorism. Adopted by consensus in 2006, this strategy marked a significant milestone, as all United Nations Member States agreed to a unified strategic and operational approach to combat terrorism. The strategy underscores the primary responsibility of Member States in implementing the United Nations Global Counter-Terrorism Strategy and in preventing and countering terrorism and violent extremism conducive to terrorism.

13. The Strategy sends an unequivocal message that terrorism is unacceptable in all its forms and manifestations. It commits Member States to take practical steps, both individually and collectively, to prevent and combat terrorism. These practical steps encompass a wide array of measures, ranging from enhancing Member States' capacities to counter terrorist threats to improving the coordination of the United Nations System's counter-terrorism architecture and activities. The United Nations Global Counter-Terrorism Strategy, articulated through a resolution and an annexed Plan of Action³, is structured around four key pillars:

1. Measures to Address the Conditions Conducive to the Spread of Terrorism: This pillar focuses on addressing the underlying factors that contribute to terrorism, such as socio-economic disparities, political exclusion, and lack of education.

2. Measures to Prevent and Combat Terrorism: This includes strategies and actions to thwart terrorist activities and dismantle terrorist networks.

3. Measures to Build States' Capacity to Prevent and Combat Terrorism and to Strengthen the Role of the United Nations System in that Regard: This pillar emphasises the importance of

² A/RES/60/288

³ Ibid.

enhancing the capabilities of Member States to effectively counter terrorism through training, resources, and international cooperation.

4. Measures to Ensure Respect for Human Rights for All and the Rule of Law as the Fundamental Basis of the Fight Against Terrorism: This underscores the necessity of upholding human rights and the rule of law in all counter-terrorism efforts, ensuring that actions taken do not undermine these fundamental principles.

14. The review process for the United Nations Global Counter-Terrorism Strategy, which began in 2006, is a comprehensive and iterative exercise that ensures the Strategy remains relevant and responsive to the evolving nature of global terrorism threats. The biennial review process typically begins with the appointment of two permanent representatives as co-facilitators by the President of the General Assembly. These co-facilitators are tasked with navigating the complexities of the review process, which includes managing the diverse and sometimes conflicting priorities of Member States. The process is initiated by a report from the UN Secretary-General, which provides an overview of the global terrorism landscape and assesses the progress made in implementing the Strategy. This report serves as a foundational document for subsequent discussions and negotiations.

15. The co-facilitators then develop a “zero draft” of the review resolution, which is based on the previous resolution, initial discussions with Member States, and the Secretary-General’s report. This draft is shared with Member States for input, and several rounds of informal meetings are held to refine the text and address any differences. These meetings involve counter-terrorism focal points from Member States’ missions to the United Nations, and often specific Member States volunteer to work on particular themes to facilitate consensus. The negotiation process is primarily conducted behind closed doors, with limited formal opportunities for non-state stakeholders, including civil society, to contribute. The UN Office of Counter-Terrorism plays a crucial role in supporting the process by ensuring that the draft resolution aligns with past resolutions and other UN documents, and by addressing any questions from Member States.⁴

⁴ See Global Center on Cooperative Security, ‘The Strategy and Its Review Process’ in *Blue Sky V: An Independent Analysis of UN Counterterrorism Efforts* (2020) <<https://www.jstor.org/stable/resrep27519.6>> accessed 4 August 2024.

16. The review process culminates in the adoption of the final text of the resolution, which is presented by the co-facilitators and validated by Member States. This final resolution reflects the collective priorities and commitments of the international community to counter terrorism and violent extremism. The biennial reviews also provide an opportunity to assess the impact and progress of the Strategy, identify emerging threats and trends, and set new priorities for the next review period. This iterative process ensures that the United Nations Global Counter-Terrorism Strategy remains a living document, capable of adapting to the changing dynamics of global terrorism and enhancing the collective efforts of Member States to combat this persistent threat.

17. In anticipation of the eighth biennial review of the United Nations Global Counter-Terrorism Strategy, the Secretary-General had submitted a detailed report to the General Assembly, as requested in resolution 75/291. This report, titled “Activities of the United Nations System in Implementing the United Nations Global Counter-Terrorism Strategy and Suggestions for its Future Implementation”, covered the period from January 2021 to December 2022 and was issued in February 2023.⁵ The report provides a comprehensive overview of the progress made in implementing the Strategy and offers insights into the future direction of counter-terrorism efforts.

18. The report highlights several key activities and initiatives undertaken by the United Nations system to support Member States in countering terrorism. It emphasizes the importance of a coordinated and integrated approach, leveraging the strengths of various UN entities and regional organisations. The report is informed by submissions from 42 Member States, five regional organisations, 19 UN Global Counter-Terrorism Coordination Compact entities, and 23 civil society organisations. These contributions provide a diverse perspective on the implementation of the Strategy and suggest areas for future improvement. One of the significant aspects of the report is its focus on enhancing the integration of the rule of law, human rights, and gender as cross-cutting elements of the Strategy.

⁵ United Nations General Assembly, ‘Activities of the United Nations System in Implementing the United Nations Global Counter-Terrorism Strategy’ (2 February 2023) UN Doc A/77/718.

19. In 2023, Member States undertook the eighth review of the Strategy. This review was particularly significant as it provided a platform to assess the effectiveness of the measures implemented, share best practices, and address emerging challenges in the fight against terrorism. The review also facilitated a renewed focus on enhancing international cooperation, strengthening the legal frameworks, and ensuring that counter-terrorism measures are in strict compliance with international human rights standards.

20. All Member States participated in the review of the Strategy as part of the work of the General Assembly. To assist in the steering of this intergovernmental process, the President of the General Assembly appointed the Permanent Representatives of Canada and Tunisia to act as co-facilitators, while the United Nations Office of Counter-Terrorism (UNOCT) served as the substantive secretariat. UNOCT supported the co-facilitators, negotiations, and consultations from March 2023 until the conclusion of the General Assembly debate. On 22 June 2023, the General Assembly adopted, without a vote, the resolution on the eighth review of the United Nations Global Counter-Terrorism Strategy.⁶ This adoption followed intense negotiations, which were crucial in sustaining consensus behind the Strategy. However, even after its adoption, it is noteworthy that one Member State chose to dissociate itself from the resolution.⁷

21. The resolution adopted was largely a procedural continuation with minimal changes from the resolution on the seventh biennial review. This approach ensured that the fundamental principles and commitments of the Strategy remained intact while allowing for necessary updates to address emerging challenges. It requested the Secretary-General to submit to the General Assembly at its eightieth session, no later than February 2026, a report on progress made in the implementation of the Strategy, containing suggestions for its future implementation by the United Nations system. Notably, this marks a departure from the previous biennial timeline. The resolution reaffirms the international community's unwavering commitment to countering terrorism in all its forms and underlines the importance of a comprehensive, balanced, and integrated implementation of the Strategy's four pillars. The

⁶ United Nations General Assembly, 'The United Nations Global Counter-Terrorism Strategy: Eighth Review' (22 June 2023) UN Doc A/RES/77/298.

⁷ General Debate: Adoption of Review Resolution of the Global Counter Terrorism Strategy (GCTS) (General Assembly, 23 June 2023) Statement by Ambassador Ruchira Kamboj, Permanent Representative of India to the UN <<https://pminewyork.gov.in/IndiaatUNGA?id=NDk5Mw>> accessed 4 August 2024.

minimal changes reflect a consensus-driven process aimed at maintaining the Strategy's relevance and effectiveness in the face of evolving global terrorism threats. The ninth review of the United Nations Global Counter-Terrorism Strategy in 2026 will coincide with the twentieth anniversary of the adoption of the Strategy.

B. New Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism

22. The current Special Rapporteur, Ben Saul, assumed office on 1 November 2023, succeeding Fionnuala Ní Aoláin. In his first report to the Human Rights Council⁸, the Special Rapporteur outlines his approach to the mandate, reviews the state of human rights protection in global counter-terrorism efforts, identifies areas of continuity with his predecessor, and sets out new thematic priorities.

23. The Special Rapporteur intends to continue his predecessors' work of precise, thorough, balanced, and innovative human rights analysis and advocacy on countering terrorism and for the victims of terrorism. He will discharge his mandate in an independent, impartial, and objective manner to maintain the confidence of States and civil society. Recognising the sensitivity around countering terrorism, he will engage in constructive dialogue with States to highlight concerns, identify workable solutions, and build diplomatic relationships based on trust and confidence. Where dialogue does not remedy violations or where they are deliberate and systemic, the Special Rapporteur may call publicly upon States to account for their actions. He is also interested in highlighting good national and regional practices that could serve as models elsewhere.

24. The Special Rapporteur expresses deep regret that many human rights violations identified over the past 18 years by previous mandate holders have not only not been remedied but have worsened. These include sweeping definitions of terrorism, criminalisation of conduct and expression with no proximate causal connection to terrorist violence, abusive listing of organisations and individuals as terrorist without due process, excessive counter-terrorism sanctions and financing laws undermining legitimate non-profit organisations, deliberate misuse of counter-terrorism laws against political opponents and civil society, mass and online

⁸ A/HRC/55/48

surveillance exceeding the bounds of privacy, and violations of criminal procedure and fair trial rights. The Special Rapporteur urges all States to move beyond rhetorical commitment to human rights and place human rights at the heart of all counter-terrorism activities.

25. The Special Rapporteur will advance the important work of his predecessor on key issues, including the impacts of countering terrorism on civil society, violations in relation to detention in north-eastern Syrian Arab Republic, the protection of those detained in and transferred from the Guantánamo Bay detention facility, human rights in the United Nations counter-terrorism system, and new technologies. The emphasis will be on advocacy for the implementation of human rights standards by systematically engaging relevant actors.

26. The Special Rapporteur has identified five thematic issues that may be the subjects of annual reports:

- 1) human rights in efforts to counter terrorism by regional organisations
- 2) administrative measures in countering terrorism
- 3) the roles of non-State actors in countering terrorism
- 4) human rights in countering terrorism by specialised international bodies (ICAO and IMO)
- 5) accountability and reparation for large-scale violations of human rights resulting from counter-terrorism measures.

27. The Special Rapporteur's report provides a comprehensive overview of his vision and priorities, emphasising the need to place human rights at the centre of global counter-terrorism efforts. His future work will focus on addressing emerging challenges, engaging with diverse stakeholders, and advocating for the implementation of human rights standards in countering terrorism.

IV. IMPACT OF SOCIAL MEDIA AND ONLINE PLATFORMS IN SPREADING EXTREMIST IDEOLOGIES AND LEGAL RESPONSES

28. Modern technologies, particularly social media and online platforms, have significantly transformed the landscape of radicalisation. The ease of access, anonymity, and global reach of these platforms make them potent tools for spreading extremist ideologies. Research

indicates that social media plays a crucial role in the radicalisation process by providing a medium for extremists to disseminate propaganda, recruit members, and coordinate activities. For instance, a study on U.S. extremists found that nearly 90% of individuals who radicalised in 2016 used social media platforms extensively during their radicalisation process.⁹ This trend is not confined to the United States; similar patterns have been observed globally, including in India, where social media has facilitated the spread of extremist ideologies among the youth.

29. In many States in the Asia-Pacific region, extremist groups have leveraged social media to further their causes.¹⁰ These groups use platforms to disseminate propaganda, recruit members, and plan operations, highlighting the decentralised nature of modern extremist movements. Similarly, in Africa, groups like Al-Shabaab, Boko Haram, and ISIL have utilised social media to radicalise individuals and coordinate activities across borders.¹¹ A study by the United Nations Development Programme (UNDP) found that these groups use platforms like X (formerly Twitter), Facebook, and YouTube to attract, train, and communicate with followers, contributing to radicalisation in several African countries.¹² The influence of social media on radicalisation is also evident in Central Asian States, where local conditions, such as grievances and criminal youth subculture, intersect with online propaganda to promote extremist violence.¹³ This highlights the complex interplay between local socio-political contexts and global online extremist networks.

30. The following subsections focus on the United Nations initiatives to counter online radicalisation, examining the efforts of the Counter-Terrorism Committee Executive Directorate (CTED) and the adoption of UN Security Council Resolution 2354 (2017). Additionally, the European Union's Regulation (EU) 2021/784 on addressing the

⁹ Jensen M, 'The Use of Social Media by United States Extremists' (National Consortium for the Study of Terrorism and Responses to Terrorism 2018) <https://www.start.umd.edu/pubs/START_PIRUS_UseOfSocialMediaByUSExtremists_ResearchBrief_July2018.pdf>

¹⁰ See Droogan J and Waldek L, 'Social media and terrorism in the Asia Pacific' in Schreer B and Tan ATH (eds), *Terrorism and Insurgency in Asia: A Contemporary Examination of Terrorist and Separatist Movements* (Routledge 2019).

¹¹ See Cox K et al, 'Social Media in Africa a Double-Edged Sword for Security and Development Executive Summary' <https://www.undp.org/sites/g/files/zskgke326/files/migration/africa/UNDP-RAND-Social-Media-Africa-Executive-Summary_final_3-Oct.pdf>

¹² Ibid.

¹³ Sharipova D and Beissembayev S, 'Causes of Violent Extremism in Central Asia: The Case of Kazakhstan' (2021) 46(9) *Studies in Conflict & Terrorism* 1702 <<https://doi.org/10.1080/1057610X.2021.187216>> accessed 6 August 2024.

dissemination of terrorist content online serves as a model regulation to study, as it provides a comprehensive framework for tackling the spread of extremist content on digital platforms.

A. United Nations Initiatives to Address Online Radicalisation

31. The United Nations has been a pivotal player in the global effort to combat online radicalisation. Recognising the profound impact of the Internet and social media in spreading extremist ideologies, the UN has developed a comprehensive strategy to address this challenge. Key initiatives include the work of the Counter-Terrorism Committee Executive Directorate (CTED) and the adoption of UN Security Council Resolution 2354 (2017).

(1) Counter-Terrorism Committee Executive Directorate (CTED)

32. The CTED, established by the UN Security Council, plays a crucial role in countering online radicalisation.¹⁴ The CTED emphasises the importance of countering terrorist narratives online and has developed guidelines and best practices for member states to combat this issue. Key aspects of CTED's efforts include:

1. **Guidelines for Member States:** CTED has provided detailed guidelines for member states to develop and implement national strategies to counter online radicalisation. These guidelines emphasise the need for a balanced approach that respects human rights and fundamental freedoms while effectively countering extremist content online.
2. **Capacity Building:** CTED works closely with member states to build their capacity to detect, monitor, and counter online extremist content. This includes training law enforcement agencies, enhancing technical capabilities, and fostering international cooperation.
3. **Public-Private Partnerships:** Recognising the critical role of technology companies, CTED facilitates public-private partnerships to develop innovative solutions for detecting and removing extremist content online. This collaboration aims to leverage the expertise and resources of the private sector to enhance the effectiveness of counter-radicalisation efforts.

¹⁴ 'Security Council - Counter-Terrorism Committee (CTC) | Counter-Terrorism Committee Executive Directorate (CTED)' <<https://www.un.org/securitycouncil/ctc/>> accessed 6 August 2024

(2) UN Security Council Resolution 2354 (2017)

33. Adopted on May 24, 2017, UN Security Council Resolution 2354 is an important resolution that addresses the threat of terrorist narratives and the use of the Internet for terrorist purposes.¹⁵ Key provisions of the resolution include:

1. **National Strategies:** The resolution calls upon member states to develop and implement comprehensive national strategies to counter terrorist narratives. These strategies should include measures to prevent the use of the internet for terrorist purposes, promote alternative narratives, and engage with local communities to build resilience against extremist ideologies.
2. **International Cooperation:** The resolution emphasises the importance of international cooperation in countering terrorist narratives. It calls for enhanced information sharing, joint investigations, and coordinated efforts to disrupt the online activities of terrorist groups.
3. **Role of the Private Sector:** The resolution recognises the critical role of the private sector, particularly technology companies, in countering online radicalisation. It encourages member states to work closely with these companies to develop effective measures for detecting and removing extremist content.
4. **Human Rights:** The resolution also stresses on the need to respect human rights and fundamental freedoms while countering terrorist narratives. It calls for measures to ensure that efforts to counter online radicalisation do not infringe upon freedom of expression and privacy rights.

34. Further, the UN supports various Countering Violent Extremism (CVE) programmes that aim to prevent the spread of extremist ideologies and promote alternative narratives.¹⁶

¹⁵ United Nations Security Council, Resolution 2354 (2017) adopted by the Security Council at its 7949th meeting, on 24 May 2017, S/RES/2354.

¹⁶ See, for instance, 'Global Programme on Preventing and Countering Violent Extremism (PCVE) | Office of Counter-Terrorism' <[13](https://www.un.org/counterterrorism/preventing-violent-extremism#:~:text=Global%20Programme%20on%20Preventing%20and%20Countering%20Violent%20Extremism%20(PCVE),-%22There%20needs%20to&text=The%20Global%20Programme%20on%20Preventing,reduce%20the%20threat%20of%20terrorism.> accessed 6 August 2024</p></div><div data-bbox=)

These programmes involve engaging with local communities, civil society organisations, and the private sector to build resilience against radicalisation.

B. European Union's Regulation on Addressing the Dissemination of Terrorist Content Online

35. The European Union has taken significant steps to combat the spread of terrorist content online through the adoption of the Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online, which became effective on June 7, 2022.¹⁷ This regulation aims to prevent terrorists from exploiting the Internet to spread their messages, recruit members, and facilitate attacks. The regulation was introduced in response to the increasing use of online platforms by terrorists, highlighted by incidents such as the livestreamed attacks in Christchurch, New Zealand (2019) and Buffalo, the United States (2022).¹⁸

36. This regulation aims to ensure the smooth functioning of the digital single market while contributing to public security and establishing safeguards to protect fundamental rights. This regulation is worth a closer look as a model for AALCO Member States to learn from, given its comprehensive approach and elaborate mechanisms. Nevertheless, it cannot be squarely replicated due to differing legal frameworks, cultural contexts, and technological infrastructure across AALCO Member States.

37. One of the central components of the regulation is the issuance of removal orders. National competent authorities have the power to issue removal orders that require hosting service providers to remove or disable access to terrorist content within one hour of receiving the order. These orders must include a statement of reasons that qualify the material as terrorist content and provide sufficient information for its location. Another critical element is the imposition of specific measures on hosting service providers exposed to terrorist content. These providers must implement appropriate technical or operational measures to protect their

¹⁷ Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online [2021] OJ L172/79.

¹⁸ European Commission, 'Security Union: Rules on removing terrorist content online become applicable' (Press Release IP/22/3479, 7 June 2022) <https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3479> accessed 5 August 2024.

services against the dissemination of such content. This can include mechanisms for users to report alleged terrorist content or other measures deemed appropriate and effective by the provider. Hosting service providers are also required to preserve removed content and related data for specific purposes. These purposes include administrative or judicial review proceedings and the prevention, detection, investigation, and prosecution of terrorist offenses. This ensures that relevant authorities have access to necessary data even after the content has been removed.

38. Transparency and accountability are emphasised through the requirement for hosting service providers to publish annual transparency reports on actions taken to remove terrorist content. Competent authorities are also required to publish annual transparency reports, ensuring that the public is informed about the measures being taken to combat terrorist content online.

39. The regulation also establishes safeguards to protect fundamental rights, including the right to freedom of expression and information. Hosting service providers must implement user-friendly complaint mechanisms, allowing content providers to challenge the removal or disabling of their content. This ensures that content removal is conducted fairly and transparently. The EU Member States are required to designate competent authorities responsible for issuing removal orders, scrutinising these orders, overseeing specific measures, and imposing penalties. These authorities must carry out their tasks objectively and without discrimination, ensuring that the regulation is applied fairly across the EU.

40. The adoption of this regulation has led to increased efforts by hosting service providers to remove terrorist content promptly. For instance, in May 2024, the Spanish government led a European meeting on the fight against the dissemination of terrorist content online, highlighting the importance of cooperation and the effective implementation of the regulation.¹⁹ In Germany, the Federal Network Agency (*Bundesnetzagentur*) has been designated as the

¹⁹ 'Spain Leads the European Plan against the Dissemination of Terrorist Propaganda and Radicalism on the Internet' (Lamoncloa) (2024) <<https://www.lamoncloa.gob.es/lang/en/gobierno/news/Paginas/2024/20240523-dissemination-terrorist-content-online.aspx>> accessed 6 August 2024

competent authority for overseeing the implementation of specific measures and imposing penalties under the regulation.²⁰

41. The EU Regulation on addressing the dissemination of terrorist content online offers valuable insights for AALCO Member States. It mandates swift removal of terrorist content within one hour, designates competent authorities, and requires hosting service providers to implement specific protective measures. The regulation also emphasises safeguarding fundamental rights, imposes penalties for non-compliance, and mandates transparency reporting. While the EU's provisions may not be directly applicable, the principles can guide AALCO Member States in developing tailored frameworks to combat terrorist content online, adapted to their unique legal, cultural, and technological contexts.

C. Human Rights Considerations

42. The fight against terrorism, including efforts to combat the dissemination of terrorist content online, must be conducted within the framework of international human rights law. The international human rights legal regime, enshrined in instruments such as the Universal Declaration of Human Rights (UDHR)²¹, the International Covenant on Civil and Political Rights (ICCPR)²², and the International Covenant on Economic, Social and Cultural Rights (ICESCR)²³, sets out fundamental rights and freedoms that States must respect, protect, and fulfil.

43. In the context of counter-terrorism measures, there is a delicate balance to be struck between ensuring public security and protecting human rights. Article 19 of the UDHR and Article 19 of the ICCPR guarantee the right to freedom of expression, including the freedom to seek, receive, and impart information and ideas through any media, regardless of frontiers. This right is not absolute and may be subject to certain restrictions, but only as provided by

²⁰ 'Bundesnetzagentur - Terrorist Content Online' (2021) <<https://www.bundesnetzagentur.de/EN/Areas/Digitalisation/Internet/TerrorOnlIn/start.html>> accessed 6 August 2024

²¹ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III).

²² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

²³ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

law and as necessary for the respect of the rights or reputations of others, or for the protection of national security, public order, public health, or morals (Article 19(3) of the ICCPR).

44. Moreover, Article 17 of the ICCPR protects the right to privacy, stipulating that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence. In the digital age, this right extends to the protection of personal data and online privacy. Counter-terrorism measures that involve the monitoring, collection, or retention of personal data must be subject to appropriate safeguards and oversight to prevent abuse and ensure compliance with human rights standards.

45. Other relevant human rights considerations in the context of countering terrorist content online include the right to a fair trial (Article 14 of the ICCPR), the right to an effective remedy (Article 2(3) of the ICCPR), and the prohibition of discrimination (Article 26 of the ICCPR). States must ensure that their laws, policies, and practices in this area do not disproportionately target or discriminate against particular groups, such as religious or ethnic minorities.

46. Balancing security measures with the protection of human rights is a complex challenge that requires careful consideration and ongoing dialogue among States, civil society, and other stakeholders. The recommendations by the Special Rapporteur on counter-terrorism and human rights provide valuable guidance in this regard, emphasising the need for States to ensure that their counter-terrorism measures are necessary, proportionate, and non-discriminatory, and that they are subject to effective oversight and accountability mechanisms.

D. Recommendations of the Special Rapporteur

47. Fionnuala Ní Aoláin, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, provides a comprehensive set of recommendations to States, the United Nations, and business enterprises in her report titled “Human rights implications of the development, use and transfer of new technologies in the context of counterterrorism and countering and preventing violent extremism”.²⁴

²⁴ UN Human Rights Council, ‘Human rights implications of the development, use and transfer of new technologies in the context of counterterrorism and countering and preventing violent extremism: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin’ (27 February-31 March 2023) UN Doc A/HRC/52/39.

48. For States, the Special Rapporteur recommends passing comprehensive domestic legislation to protect individual and group rights in the collection of data for national security, counter-terrorism, violent extremism, or extremism purposes. States must ensure that their policies and procedures for the use of armed drones, both within and outside counter-terrorism and conflict settings, strictly observe established rules of international law, international humanitarian law, and international human rights law. The use of armed drones in the domestic context should be subject to robust oversight mechanisms in full compliance with human rights law.²⁵

49. The Special Rapporteur also calls for States to pass comprehensive domestic legislation that adequately protects the right to privacy as a gateway right, enabling and sustaining the protection of other fundamental human rights, including non-derogable rights. This includes comprehensive data protection legislation. States must establish and support adequately resourced and independent oversight of new technologies in counter-terrorism and security contexts, including the establishment of independent data privacy oversight bodies. Intelligence oversight bodies should be adequately resourced and technologically proficient to address the expansive use of technology by intelligence entities.

50. States should put in place moratoriums on human rights-deficient transborder cooperation that facilitates the transfer of high-risk technologies to States with poor records of human rights violations. They must provide adequate and accessible remedies to individuals whose personal information has been mishandled or misused in counter-terrorism or preventing and countering violent extremism contexts. States should take practical legislative steps to protect against human rights abuses by businesses in the technology sector and commit to independent oversight over the United Nations Global Counter-Terrorism Coordination Compact Task Force and the Office of Counter-Terrorism.

51. Additionally, in alignment with the United Nations High Commissioner for Human Rights, she calls for the adoption by States of robust export control regimes for the cross-border trade of surveillance technologies to prevent the sale of such technologies when there is a risk that they could be used in violating human rights. She also supports a moratorium on the use

²⁵ Ibid. p.18

of remote biometric recognition technologies in public spaces until authorities can demonstrate compliance with privacy and data protection standards, the absence of significant accuracy issues and discriminatory impacts, and the implementation of all recommendations set out in the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

V. INTERNATIONAL TERRORISM AND THE LAW OF WAR

A. *Jus ad bellum*

52. *Jus ad bellum* refers to the conditions under which States may resort to war or to the use of armed force in general. Until the end of the First World War, the use of armed force was not considered illegal but was seen as an acceptable method for resolving disputes. This changed in 1919 when the Covenant of the League of Nations²⁶, and in 1928, the Treaty of Paris (Briand-Kellogg Pact)²⁷, aimed to outlaw war. The adoption of the United Nations Charter in 1945 reinforced this trend, with Article 2 (4) of the Charter stating, “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”²⁸

53. Under the U.N. Charter paradigm, there are only two instances when force may be used lawfully: when authorized by the Security Council under Chapter VII of the Charter,²⁹ and in self-defence, under Article 51.³⁰ Article 39 of Chapter VII of the Charter provides that “the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression, and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”³¹ In a similar tone, Article 42 of the Charter specifies, “If all measures not involving the use of armed force are inadequate, the Security Council may take military actions as may be necessary.”³²

²⁶ Covenant of the League of Nations (adopted 28 June 1919) 108 LNTS 188

²⁷ General Treaty for Renunciation of War as an Instrument of National Policy (adopted on 25 July 1929) 57 LNTS 94 (Briand-Kellogg Pact)

²⁸ Charter of the United Nations Rights (adopted 24 October 1945) 1 UNTS XVI art 2 (4)

²⁹ Charter of the United Nations Rights (adopted 24 October 1945) 1 UNTS XVI art 39

³⁰ Ibid, art 51

³¹ Ibid, art 41

³² Ibid, art 42

54. However, it is the right of Self-defence given under Article 51 that has been invoked most frequently in justifying international uses of force by the International community. One of the key elements for the use of the right to self-defence is the occurrence of an ‘armed attack’. On one view, the right is confined to circumstances in which an actual armed attack has commenced. But the view that States have a right to act in self-defence in order to avert the threat of an *imminent* attack - often referred to as ‘anticipatory self-defence’ - is widely, though not universally, accepted.³³ Again, not every use of force amounts to an armed attack. An armed action must present a certain degree of gravity to entail the right to self-defence.³⁴

55. The right to self-defence may be exercised individually or collectively. The ICJ held in the *Nicaragua Case* that ‘self-defence would warrant only measures which are proportional to the armed attack and necessary to respond to it’.³⁵ This statement sets out two important principles in international law concerning the use of force: the principle of proportionality and the principle of necessity. In this context, proportionality means that the response to an armed attack must be reflective of the scope, nature and gravity of the attack itself. On the other hand, the principle of necessity guards against the use of measures which are excessive and not necessary in response to an armed attack.

56. The meaning of ‘armed attack’ causes significant controversy in international law. In the seminal case of *Nicaragua v. United States*,³⁶ the ICJ relied on Article 3(g) of the 1974 Resolution on the Definition of Aggression³⁷ to hold that an “armed attack” could include aggression by “armed bands, groups, irregulars, or mercenaries” only if they were sent “by or on behalf of a state” (i.e., attributable to a state). In the *Nicaragua Case*, Judge Higgins strongly opposed this view and argued that the act involving the use of force from actors other than a State, such as groups of insurgents or terrorist groups, may give rise to the exercise of the right of self-defence by the attacked State. This statement highlights a very contentious issue in modern international relations, namely the use of force in self-defence against non-State actors and the connected legal question related to the immutability of States harbouring or supporting non-State actors like terrorist groups.

³³ Rein Müllerson, ‘Legal Regulation of the Use of Force: The Failure of Normative Positivism’ (2011) 3 The Progression of International Law 543-591

³⁴ Military and Paramilitary Activities in and Against Nicaragua (*Nicaragua v. U.S.*), Judgment, 1986 I.C.J. 14 para 191

³⁵ *Ibid*, para 176

³⁶ *Supra* note 9

³⁷ UN General Assembly, *Definition of Aggression*, A/RES/3314, UN General Assembly, 14 December 1974, <<https://www.refworld.org/legal/resolution/unga/1974/en/9900>> accessed on 06 August 2024

57. The ICJ, in its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, maintained its position in *Nicaragua case* that self-defence could only be invoked in response to an armed attack “by one State against another State.”³⁸ In the case of *Democratic Republic of the Congo v. Uganda*, the ICJ re-affirmed that, in order for aggression by a non-state actor to qualify as an “armed attack” under the meaning of Articles 2(4) and 51, the non-state actor had to show ties to a sovereign state recognized under the UN system for its actions to trigger Article 51.³⁹

58. However, over time States have taken an Expansive Approach to Self-Defence against Non-State Actors. Proponents of an expansive definition argue that a non-state actor can commit an armed attack that triggers Article 51, thereby allowing the victim-state and its allies to lawfully use force against the non-state actor. Post the 9/11 attacks, the UN Security Council Resolutions 1368 and 1373, calling on “all States to work together urgently to bring justice to the [9/11] perpetrators,” gave a tacit nod to the United States’ invocation of self-defence against al-Qaeda, terrorist group.⁴⁰

59. A connected issue relates to the responsibility national governments incur for the actions of non-State entities, significantly terrorist organizations, to which they bear a nexus, territorial, financial, or other. In the *Nicaragua case*, the ICJ laid down the “effective control test” for establishing state responsibility. The ICJ opined that in order to find any State to be legally responsible for the activities of a non-State actor, it would have to prove that the State had effective control of the non-State actor. Later in the *Tadic case*⁴¹, this test was modified to the “overall control” test, which laid down that to attribute responsibility, it is necessary to demonstrate that the “host state” exercised “overall control” over the group in question.

60. The law governing state responsibility was attempted to be codified by the International Law Commission (ILC) through its Draft Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) in 2001.⁴² Article 8 of ARSIWA, following the test stated in *Nicaragua*, lays down the standard of attribution. It provides that “the conduct of a

³⁸ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, [2004] ICJ Rep. 136, at 194, para. 139

³⁹ Case Concerning Armed Activities on the Territory of the Congo (Dem. Rep. Congo v. Uganda), Judgment, 2005 I.C.J. 168 (Dec. 19)

⁴⁰ S.C. Res. 1368, para 3 (Sept. 12, 2001); S.C. Res. 1373 (Sept. 28, 2001)

⁴¹ Prosecutor v Dusko Tadic, Case No. IT-94-I-A, Judgment (15 July, 1999)

⁴² ILC, ‘Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’ (November 2001) Supplement No. 10 UN Doc A/56/10)

person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of that State in carrying out the conduct.”

61. Some scholars state that in order to impute liability for attack to a State when the State has no direct ties to terrorist activities arising from within its territories, the principle of “indirect responsibility” may be used. Indirect responsibility may be accrued due to an omission, deliberate or innocent, rather than an act. Hence a State’s passiveness or indifference towards terrorist agendas within its own territory may trigger its responsibility, possibly on the same scale as though it had actively participated in the planning.⁴³

62. Despite no clear ICJ ruling on the aspect of attribution of state responsibility for terrorist activities by non-state actors, recent State practice suggests that States are increasingly justifying actions against terrorist groups under Article 51 and are holding the States which harbour terrorist groups accountable for the acts of private armed groups.

B. *Jus in bello*

63. International humanitarian law (IHL), or *jus in bello*, is the law that governs the way in which warfare is conducted. The purpose of IHL is to limit the suffering caused by war by protecting and assisting its victims as far as possible. It therefore addresses the reality of a conflict without considering the reasons for or the legality of resorting to force. It regulates only those aspects of the conflict that are of humanitarian concern.

64. Terrorist acts may occur during armed conflicts or in time of peace. IHL applies only in situations of armed conflict; it does not therefore regulate terrorist acts committed in peacetime. IHL will apply to the activities of terrorist organizations and to counter-terrorism initiatives in the context of an internal or international armed conflict. IHL will apply whether or not the original use of force was lawful.

65. Whilst IHL does not recognize terrorists as their own discrete category of actors during situations of armed conflict, it does recognize and prohibit terrorist activities. Any acts which would normally be categorized as 'terrorist' as understood within the context of the universal

⁴³ See, for example, O'Meara, Chris, *Necessity and Proportionality and the Right of Self-Defence in International Law*, Oxford Monographs in International Law (Oxford 22 Apr. 2021)

anti-terrorism instruments and criminal justice approaches during peacetime, such as the deliberate perpetration of acts of violence against civilians or civilian objects, constitute war crimes under IHL which should be prosecuted accordingly.

66. IHL can be found in customary international law and in various treaties relating to the law of war. The principal sources of international humanitarian law are the four Geneva Conventions of 1949 and the three Additional Protocols to these Conventions:

- First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949)⁴⁴
- Second Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949)⁴⁵
- Third Geneva Convention Relative to the Treatment of Prisoners of War (1949)⁴⁶
- Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949)⁴⁷
- First Protocol Relating to the Protection of Victims of International Armed Conflicts (1977)⁴⁸
- Second Protocol Relating to the Protection of Victims of Non-International Armed Conflicts (1977)⁴⁹
- Third Protocol Relating to the Adaption of an Additional Distinctive Emblem (2005)⁵⁰

67. A fundamental principle of IHL is the principle of humanity which gives rise to the principle of distinction, the principle of proportionality and the prohibition on causing superfluous injury or unnecessary suffering. Under the principle of distinction, the parties to a conflict must at all times distinguish between civilians and combatants, and attacks may be directed only at military objectives.⁵¹

⁴⁴ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 31 (First Geneva Convention)

⁴⁵ Geneva Convention for the amelioration of the condition of the wounded, sick and shipwrecked members of the armed forces at sea (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 85

⁴⁶ Third Geneva Convention Relative to the Treatment of Prisoners of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 135

⁴⁷ Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287

⁴⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (entered into force 8 June 1977) 1125 UNTS 3 (Protocol I)

⁴⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (8 June 1977) 1125 UNTS 609 (Protocol II)

⁵⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (8 December 2005) 2404 UNTS 261 (Protocol III)

⁵¹ K M Larsen, C Guldahl Cooper and G Nystuen (eds), *Searching for a 'Principle of Humanity' in International Humanitarian Law* (Cambridge University Press 2012).

68. Under the principle of proportionality, attacks on legitimate military objectives which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, are prohibited. Finally, an attacker must take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.

69. The Fourth Geneva Convention (article 33) states that “collective penalties and likewise all measures of intimidation or of terrorism are prohibited”, while Additional Protocol II (article 4) prohibits “acts of terrorism” against persons not or no longer taking part in hostilities. The main aim is to emphasize that neither individuals nor the civilian population may be subject to collective punishments, which, among other things, obviously induce a state of terror.

70. Both Additional Protocols to the Geneva Conventions also prohibit acts aimed at spreading terror among the civilian population. “The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited” (Additional Protocol I, article 51(2) and Additional Protocol II, article 13(2)).

71. These provisions are a key element of international humanitarian law rules governing the conduct of hostilities. They prohibit acts of violence during armed conflict that do not provide a definite military advantage. It is important to bear in mind that even a lawful attack on military targets can spread fear among civilians. However, these provisions outlaw attacks that specifically aim to terrorize civilians, for example campaigns of shelling or sniping of civilians in urban areas.

VI. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

72. The AALCO Secretariat, having considered the developments and challenges in the global fight against international terrorism, offers the following comments and suggestions to enhance the collective efforts of Member States in line with relevant international legal instruments.

73. Firstly, it is imperative for Member States to ensure that their counter-terrorism measures are in full compliance with international law, particularly international human rights law, international humanitarian law, and international refugee law. The United Nations Global Counter-Terrorism Strategy, adopted by the General Assembly in its resolution 60/288, serves as a comprehensive framework that Member States should adhere to in their counter-terrorism efforts. The Strategy's fourth pillar emphasizes the importance of respecting human rights and the rule of law as the fundamental basis for the fight against terrorism. Member States must ensure that any measures taken to combat terrorism comply with their obligations under international law, as stipulated in various international instruments such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

74. Secondly, Member States should actively engage in the negotiations on the Comprehensive Convention on International Terrorism (CCIT) to expedite its finalization and adoption. The lack of a universally agreed-upon definition of terrorism has been a major obstacle in the fight against international terrorism. The adoption of the CCIT would provide a clear legal framework for international cooperation in preventing and combating terrorism, while ensuring respect for human rights and the rule of law. Member States should demonstrate political will and flexibility to overcome the remaining differences and conclude the negotiations on the CCIT, taking into account the concerns and interests of all states.

75. Thirdly, Member States must strengthen international cooperation and coordination in preventing and combating terrorism, in line with the obligations set forth in various international legal instruments. The United Nations Convention against Transnational Organized Crime (UNTOC) and its Protocols, as well as the International Convention for the Suppression of the Financing of Terrorism (ICSFT), provide important frameworks for international cooperation in areas such as extradition, mutual legal assistance, and information sharing. Member States should fully implement these instruments and enhance their cooperation through bilateral, regional, and multilateral channels. The role of regional organizations, such as AALCO, in facilitating cooperation and capacity-building among Member States should be further strengthened.

76. Fourthly, Member States must address the root causes and underlying conditions that contribute to the spread of terrorism, as outlined in the United Nations Global Counter-Terrorism Strategy and various General Assembly resolutions, such as A/RES/72/284 and A/RES/75/291. This includes promoting sustainable development, poverty eradication, social inclusion, and good governance, as well as fostering a culture of peace, tolerance, and respect for diversity. Member States should fully implement the 2030 Agenda for Sustainable Development and ensure that their counter-terrorism measures do not undermine development efforts or exacerbate existing grievances and inequalities.

77. Fifthly, Member States must pay special attention to the growing threat of terrorism in cyberspace and the use of new technologies by terrorist groups. The Security Council, in its resolution 2354 (2017), called upon Member States to act cooperatively to prevent terrorists from exploiting technology and communications for terrorist acts. Member States should strengthen their legal frameworks and technical capabilities to address this challenge, while ensuring that any measures taken are in compliance with international human rights law, particularly the right to freedom of expression and the right to privacy. International cooperation and public-private partnerships are essential in this regard, as highlighted in the Security Council resolution 2396 (2017).

78. Sixthly, Member States must ensure that their counter-terrorism measures are gender-sensitive and address the specific needs and vulnerabilities of women and girls. The UN Security Council resolution 2242 (2015) calls for the integration of gender perspectives into counter-terrorism efforts and recognizes the important role of women in preventing and countering violent extremism. Member States should fully implement this resolution and ensure the meaningful participation of women in the design, implementation, and evaluation of counter-terrorism strategies and programs.

79. Finally, the AALCO Secretariat urges Member States to reaffirm their commitment to preventing and combating international terrorism in accordance with the purposes and principles of the Charter of the United Nations and their obligations under international law. By strengthening international cooperation, addressing root causes, and ensuring respect for human rights and the rule of law, Member States can effectively respond to the evolving threat of terrorism and build a safer and more secure world for all.

ANNEX

SECRETARIAT'S DRAFT
AALCO/RES/DFT/62/S9
13 SEPTEMBER 2024

VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

The Asian-African Legal Consultative Organization at its Sixty-Second Session,

Having considered Secretariat Document No. AALCO/62/BANGKOK/2024/SD/S9,

Noting with appreciation the introductory remarks of the Secretariat and the statements of the Member States during deliberations on the topic,

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

Recollecting relevant UN General Assembly and Security Council Resolutions on combating terrorism,

Gravely concerned about the threats posed by acts of terrorism, 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 terrorism in the Asian-African region,

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 terrorism, and the need for a comprehensive, cooperative and coordinated solution to the problems posed by this phenomenon,

Recalling the international efforts to eliminate 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 terrorist crimes,

1. **Encourages** Member States to consider ratifying/acceding to the relevant conventions on terrorism and try to further develop legal instruments to combat terrorism;
2. **Urges** for action at the international, regional and bilateral level to fight impunity for acts of 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-terrorism efforts, as well as discussions on the matter at the international level; and
4. **Decides** to place the topic on the provisional agenda of the AALCO Annual Session as and when required.