

**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**



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

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## VIOLENT EXTREMISM AND TERRORISM (LEGAL ASPECTS)

### I. Introduction

1. Violent extremism has emerged as a major concern for the international community in general, and for States in Africa, the Middle East, and Asia particularly. Combating violent extremism has therefore become a priority for States all across the globe and, as a contemporary issue in international law, the topic of violent extremism, particularly focusing on the legal issues surrounding the topic, found its way into AALCO's work programme in 2014.

2. The following brief is a discussion of the recent work that has been done on the topic of violent extremism. The brief will focus on the work of AALCO in this regard, particularly the deliberations at its Fifty-Fourth Annual Session in Beijing, People's Republic of China (2015) and the subsequent Inter-Sessional Meeting of Legal Experts held in New Delhi, India, from 28-29 January 2016. The brief will also, for additional information, discuss the Report of UN Secretary-General Ban Ki-moon which proffered the Plan of Action to Prevent Violent Extremism.<sup>1</sup>

### II. Background

3. The item entitled "International Terrorism" was placed on the agenda of AALCO's Fortieth Session held in New Delhi, India (2001), upon a reference made by the Government of India. It was felt that consideration of this item by AALCO would be useful and relevant in the context of the then-ongoing negotiations in the *Ad hoc* Committee of the United Nations on elaboration of the Comprehensive Convention on International Terrorism (CCIT). During the Forty-First Annual Session of AALCO held in Abuja, Nigeria (2002), a comprehensive Special Meeting on "Human Rights and Combating Terrorism" was organized by AALCO with the assistance of the Office of the High Commissioner for Human Rights (OHCHR). Subsequent sessions directed the AALCO Secretariat to monitor and report on the progress in the *Ad hoc* Committee on negotiations related to the drafting of the Comprehensive Convention on International Terrorism (CCIT), and requested the Secretariat to carry out an in-depth study on this topic. AALCO's Centre for Research and Training (CRT) thereafter published "A Preliminary Study on the Concept of International Terrorism" in 2006.

4. In the wake of atrocities committed by extremist groups in Africa, Asia and the Middle East, the title of the topic was modified to "Violent Extremism and Terrorism (Legal Aspects)" at the behest of the Islamic Republic of Iran and introduced into AALCO's Agenda in 2014 at the Fifty-Third Annual Session held in Tehran, Iran. The Fifty-Third Annual Session also included a Half-Day Special Meeting on the topic.

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<sup>1</sup> A/70/674.

5. The introduction of the modified topic into the AALCO Agenda followed the unanimous adoption of UNGA Resolution 68/127, entitled “A World Against Violence and Violent Extremism”,<sup>2</sup> on 18 December 2013, which, *inter alia*, strongly condemned violent extremism in all its forms and manifestations, denounced sectarian violence, and recognized the need for a comprehensive approach to countering violent extremism while addressing the conditions conducive to its spread. Soon thereafter, the UN Security Council passed Resolution 2178 on 24 September 2014.<sup>3</sup> Resolution 2178, which was co-sponsored by more than 100 nations, stressed, *inter alia*, on the importance of addressing the threat posed by foreign terrorist fighters and strengthening international cooperation.

6. Pursuant to mandates received from Member States at the Fifty-Third Annual Session and reiterated at the Fifty-Fourth Annual Session in Beijing, China (2015), the AALCO Secretariat convened an Inter-Sessional Meeting of Legal Experts from Member States at the AALCO Headquarters in New Delhi from 28-29 January 2016. Almost concurrently the Secretary-General of the UN also presented his report containing the Plan of Action to Prevent Violent Extremism on 24 December 2015 at the Seventieth Session of the UN General Assembly.

### **III. The Work of AALCO and the Draft Principles and Guidelines to Combat Violent Extremism and its Manifestations**

#### **A. Deliberations at the Fifty-Fourth Annual Session held in Beijing, People’s Republic China (13-17 April 2015)**

7. At the Fifty-Fourth Annual Session (2015), AALCO Member States discussed the scourge of violent extremism and the havoc that this phenomenon is wreaking across Asia, Africa and the Middle East. In particular, violent extremist groups such as ISIL, Boko Haram and Al Qaeda were denounced, along with their activities and other terrorist attacks in Kenya, Pakistan and Somalia. There was consensus among States that measures must be taken at the regional level to enhance cooperation in combating violent extremism and violent extremist groups, in addition to bilateral measures, capacity building and information sharing. To this end, the importance of UN Security Council Resolution 2178 was also emphasized.

8. States were unanimous in their agreement that terrorism and violent extremism should be dissociated from religion and that there is no justification for violent extremism and terrorism, regardless of the underlying motivations. It was also suggested by several States that one of the major challenges in taking measures to combat violent extremism was that there was no definition or widespread clarity of understanding of the concept, especially in connection to its relationship with “terrorism”.

9. The AALCO Secretariat was reminded by the Member States to heed resolution AALCO/RES/53/SP 2, adopted at the Fifty-Third Annual Session (2014), which directed the Secretariat to “coordinate holding inter-sessional expert meetings,

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<sup>2</sup> A/RES/68/127.

<sup>3</sup> S/RES/2178.

joined also by eminent international legal experts from AALCO Member States, in order to consider AALCO legal principles for coordination to combat violent extremism and its manifestations which could lead to drafting Asian-African guidelines on violent extremism and its manifestations in order to strengthening cooperation against acts of violent extremism and its manifestations."<sup>4</sup>

10. It was pointed out that AALCO/RES/53/SP2 categorically directed the Secretariat to do three things:

- i. To hold one or more inter-sessional experts meetings;
- ii. These meeting(s) were to consider “principles for coordination to combat violent extremism and its manifestations”; and,
- iii. The goal of the meeting(s) was to lead to the drafting of Asian-African guidelines on violent extremism and its manifestations.

11. The AALCO Member States therefore directed the Secretariat to effectuate the mandate given it at the Fifty-Third Session. The Inter-Sessional Meeting was consequently convened by the Secretariat in pursuance of this mandate.

**B. Deliberations at the Inter-Sessional Meeting of Legal Experts on Violent Extremism and Its Manifestations held in New Delhi, India, (28-29 January 2016)**

12. The two-day Inter-Sessional Meeting of Legal Experts was held at the AALCO Secretariat Headquarters in New Delhi, India, from 28-29 January 2016. In preparation for the Meeting, the Secretariat prepared and distributed to the Member States a *Draft Resolution on AALCO Principles and Guidelines to Combat Violent Extremism and its Manifestations*, as well as an accompanying explanatory note, which was meant to form the basis of the discussions at the Meeting.

13. The operative part of the *Draft Resolution* was divided into two sections. Section I contained eleven Principles of international law identified by the AALCO Secretariat to be relevant to the fight against violent extremism and drawn from various sources of international law, primarily the UN Charter, Friendly Relations Declaration<sup>5</sup> and customary international law. These Principles serve to reflect those important principles that States are encouraged, and in some cases obliged, to observe and respect while combating violent extremism.

14. Section II of the *Draft Resolution* contained 16 Guidelines that constituted more specific measures identified by the AALCO Secretariat, based on practical needs and challenges, as useful steps for States to take in combating the scourge of violent extremism. The Guidelines, and some Principles, were also conceptually and thematically influenced by *Pillar I* and *Pillar IV* of the United Nations Global Counterterrorism Strategy, which work to address the environmental factors that contribute to the spread of terrorism and, by extension, violent extremism, and the protection of human rights.

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<sup>4</sup> Operative Paragraph 3 of AALCO/RES/53/SP 2.

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

15. Additionally, the chapeau part of the *Draft Resolution* contained a definition for “Violent Extremism” that was drafted by the Secretariat in reaction to the confusingly indiscriminate and interchangeable use of the terms “violent extremism” and “terrorism”, which in itself is due to fact that no prior attempts have been made to authoritatively define “violent extremism” from a legal perspective. The Secretariat also endeavored to define the terms “Violent Extremist Groups” and “Radicalization” for the purpose of interpreting the provisions of the *Draft Resolution*.

16. The Inter-Sessional Meeting saw the participation of 24 AALCO Member States who delegated representatives at the Meeting. Additionally, a 25<sup>th</sup> State did not attend, but submitted written comments to the Secretariat concerning the *Draft Resolution*.

17. During the discussions that lasted six sessions over the course of two days, the delegates pored over the Secretariat’s *Draft Resolution*, debating its merits and proposing amendments. While certain elements of the *Draft Resolution*, such as the definition of the term “violent extremism”, did not find consensual solutions at the Meeting, the majority of the provisions of the *Draft* were eventually provisionally adopted by the representatives present at the meeting after discussions and certain amendments. The delegates from Turkey and the People’s Republic of China also submitted, for the consideration of other delegations, texts of possible additional provisions.

18. However, due to the fact that the representatives felt that not all the provisions of the *Draft* had been adequately discussed, it was decided that a Second Meeting would be held immediately prior to the Annual Session, allowing the representatives to complete a *Draft* that could be presented to the Plenary for adoption. The Secretariat therefore scheduled a second Inter-Sessional Meeting of Legal Experts, to be held on 16 May 2016, which would give the delegates the opportunity to complete the draft to be submitted to the Plenary at the Fifty-Fifth Annual Session.

19. The *Revised Text of the AALCO Principles and Guidelines/Guiding Principles to Combat Violent Extremism*, as provisionally agreed to at the conclusion of the first Inter-Sessional Meeting, was distributed to the Member States for their consideration immediately following the Meeting. Additionally, the Secretariat also prepared a Summary Report of the proceedings of the Inter-Sessional Meeting and uploaded it to the AALCO website for the perusal of interested parties.<sup>6</sup>

#### **IV. Report of the UN Secretary-General and the Plan of Action to Prevent Violent Extremism**

20. During the period that the Secretariat was preparing the *Draft Resolution* for the Inter-Sessional Meeting of Legal Experts, the UN Secretary-General, Ban Ki-moon, presented his report to the UN General Assembly at its Seventieth Session. The report was entitled “Plan of Action to Prevent Violent Extremism”<sup>7</sup> and was delivered

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

<sup>7</sup> A/70/674.

on 24 December 2015, but only became publicly available in January 2016, which is the reason why its conclusions and recommendations were not referenced in the AALCO Secretariat's *Draft Resolution* and explanatory note.

#### **A. Understanding the Problem of Violent Extremism**

21. The UNSG's report was divided into Five Sections: Section I was an introduction to the report and the problem of violent extremism; Section II discussed the impact of violent extremism; Section III discussed the drivers of violent extremism; Section IV included recommendations on preventing violent extremism; and finally, Section V was an appeal to UN Member States for concerted action.

22. In his introduction, the UNSG posited that the plan of action of considered and addressed violent extremism as and when it is conducive to terrorism, especially as groups like ISIL, Al-Qaeda and Boko Haram continue to claim territory while using social media to communicate their ideas and exploits, and challenging global values of peace, justice and human dignity. The UN Secretary-General also reiterated that violent extremism does not arise in a vacuum but that its appeal lies in its claim to empower those who are faced with various grievances and either actual or perceived injustices. He noted that the international community has sought to address violent extremism within the context of security-based counter-terrorism measures but that there is a growing international consensus that these measures have not been sufficient to prevent the spread of violent extremism. He also cautioned that violent extremism encompasses a wide range of manifestations and that there is a risk that conflating terrorism with violent extremism may lead to the justification of overly broad application of counter-terrorism measures to activities that do not qualify as terrorist acts.

23. The Secretary-General made the point that defining the terms "terrorism" and "violent extremism" is the prerogative of Member States. In doing so he claimed that the Plan of Action he was presenting pursues a practical approach to preventing violent extremism without venturing to address questions of definition. However, he thereafter stressed that there needs to be a comprehensive approach that encompasses ongoing security-based counter-terrorism measures while also incorporating systemic preventative measures which "directly address the drivers of violent extremism."<sup>8</sup> A recurring theme within the report of the Secretary-General is the importance of prevention through broad systemic measures encompassing areas as diverse as development and peace building.

24. The Secretary-General also made extensive reference to the UN Global Counter-Terrorism Strategy, which was adopted by the UNGA *vide* resolution 60/288, and the four pillars of this strategy. He specifically noted that global counterterrorism strategy efforts have focused mostly on *Pillar II* (preventing and combating terrorism), while *Pillar I* (tackling conditions conducive to terrorism) and *Pillar IV* (ensuring respect for human rights and rule of law) have been overlooked. The UNSG made it a point to state that effective anti-violent extremism measures will involve the comprehensive implementation of measures falling under *Pillar I* and *Pillar IV* of the counterterrorism strategy.

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<sup>8</sup> Plan of Action to Prevent Violent Extremism, at 2, para. 6.

25. While addressing the impact of violent extremism, the Secretary-General focused particularly on the areas of peace and security, sustainable development, human rights and the rule of law, and humanitarian action.

26. With regard to peace and security, Mr. Ban Ki-moon outlined the manner in which extremist groups have both fed and been fed by transnational organized crime as well as the prolongation of armed conflicts and general instability in many regions around the world, and how they seek to intimidate Governments, undermine State authority and ultimately supplant States by carrying out propaganda campaigns and violent attacks.

27. With regard to sustainable development, the Secretary-General noted how the spread of violent extremism has adversely affected developing countries and hindered their ability to reach Millennium Development Goals as well as hard-won developmental progress. Violent extremism, the Secretary-General asserted, exploits developmental challenges such as inequality, poverty and so on, and exacerbates them, thereby creating a vicious cycle of decline that affects marginalized groups.

28. The Secretary-General explained the human rights impact of violent extremism by outlining the abuses and threats to the right to life, right to liberty and security, and the freedom of expression, association, thought, conscience and religion. The adverse effects of violent extremism and extremist groups such as ISIL and Boko Haram particularly manifest in serious violations of international law. These include genocide, crimes against humanity, and war crimes such as rape, sexual enslavement and forced marriage of women, the encroachment on rights to education and participation in public life, and atrocities such as torture, murder and enforced disappearances committed against minority communities, journalists, political activists and children. The Secretary-General particularly lamented the lack of accountability and the impunity enjoyed by the perpetrators of these crimes.

29. In describing the humanitarian impact of violent extremism, the Secretary-General described the unprecedented worldwide phenomenon of displacement of persons and the refugee crises that are currently manifesting themselves around the world. Mr. Ban Ki-moon also lamented the targeting of humanitarian workers which is currently also being perpetrated in an unprecedented way.

30. Turning to the context and drivers of violent extremism, the Secretary-General admitted there is no consensus and little uniformity in the pathways towards radicalization. However, he also noted that the study of the subject had yielded certain trends and patterns. These were classified as “push” and “pull” factors.

31. The “push” factors arose from the structural context of violent extremism and basically denote the conditions conducive to the seed of extremism being planted and propagated. Important factors to consider include the lack of socio-economic opportunities, marginalization and discrimination, poor governance, institutional violation of human rights, prolonged and unresolved conflicts, and radicalization in prisons. These environmental factors have been widely noted to form the substrate from which violent extremism grows.



32. However, the “pull” factors are also important to consider. These factors denote the individual and subjective motivations of persons that lead to their radicalization, since it is obvious that not all persons exposed to the “push” factors become radicalized. The factors contributing to the radicalization of individuals include their individual experiences and backgrounds, including discrimination, abuse and victimization experienced by them, as well as exposure to leadership and social networks that distort and exploit their beliefs, ideologies and cultural differences, and recruit them to extremist causes.

## **B. Recommendations of the UN Secretary-General**

33. The Secretary-General reiterated the need for the balanced implementation of the UN Global Counterterrorism Strategy, and his recommendations identified actions at the global, regional and national levels that would ensure the balanced and comprehensive implementation of the Strategy.

34. While addressing the institution of a policy framework, the Secretary-General’s first recommendation was the establishment of a global framework for the prevention of violent extremism. He asserted that any such framework must be firmly grounded in the respect for human rights and the rule of law. This framework must also establish concerted action beyond only security and law enforcement measures and must address development, good governance, human rights and humanitarian concerns by strengthening the rule of law and implementing policies that combat discrimination, marginalization and exclusion.

35. Additionally, this global policy framework must be implemented and effectuated through action at the regional and national levels and States should develop national plans of action to address local drivers of violent extremism and complement counterterrorism strategies. The Secretary-General recommended that the national plans be developed in a multidisciplinary manner to include counter and prevention measures with input from a wide range of governmental, civil society and private sector actors. The national plans should also promote respect for principles of equality and equal protection under the law and develop effective, accountable and transparent institutions at all levels.

36. On the legal front, the Secretary-General stressed that legal systems must be equipped to handle the issue of foreign terrorist fighters by providing for the prosecution of travel for terrorism or related training. Additionally, issues concerning the financing or facilitating of terrorism and violent extremism-related activities must also be dealt with through the implementation of legal provisions. He also recommended action be taken to prevent the trade in oil and antiquities, hostage-taking, and the receipt of donations by violent extremist and terrorist groups. Setting up monitoring and evaluation mechanisms for these and other measures was also listed as a necessity by the Secretary-General.

37. Mr. Ban Ki-moon also addressed the role of Sustainable Development Goals in his policy recommendations. Particular emphasis was placed on the ending of poverty in all forms everywhere (Goal 1); ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all (Goal 4); achieving gender equality and empowering all women and girls (Goal 5); promoting sustained,

inclusive and sustainable economic growth, full and productive employment and decent work for all (Goal 8); reducing inequality within and among countries (Goal 10); making cities and human settlements inclusive, safe, resilient and sustainable (Goal 11); and promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels (Goal 16).

38. The Secretary-General then addressed regional plans of action due to the fact that violent extremism is a transnational problem that transcends borders. He stressed the need for regional plans of action that complement international and national counter terrorism and violent extremism strategies. Recommendations by the Secretary-General included the strengthening of sub-regional and regional organizations, monitoring of arms trafficking, intergovernmental communication and cooperation. Particular emphasis was placed on the exchange of information and the establishment of early warning centers. Mr. Ban Ki-moon also underscored the need for technical assistance to aid in capacity building in areas such as border management.

39. The Secretary-General made several specific recommendations for measures to be included in national and regional plans of action. One of the key areas identified for these measures was dialogue and conflict prevention where he recommended the compliance with the UN Charter, international human rights law, refugee law and humanitarian law in all military actions. However, given the fact that the fallout from prolonged conflicts and proxy wars are considered to be one of the major drivers of violent extremism, he stressed the need for avoiding conflict through the engagement of opposing parties in diplomatic solutions to disputes and the building of sustainable peace.

40. Mr. Ban Ki-moon placed emphasis on the strengthening of good governance, human rights and the rule of law, particularly in relation to the promotion of equality and justice for all. His specific recommendations included reviewing all national legislation, policies, strategies and practices aimed at preventing and countering violent extremism to ascertain their harmonization with the respect for human rights and rule of law. Non-discrimination, and the effective oversight and accountability of State bodies such as security forces, law enforcement and justice institutions were mentioned as necessary considerations. Additionally, the Secretary-General recommended measures targeted at the rehabilitation and reintegration of persons engaged in violent extremism, and the reform of national legal frameworks and penitentiary systems to ensure the security of inmates to counter radicalization in prisons.

41. Another major theme of the Secretary-General's report was the promotion of community engagement in countering and preventing violent extremism. These included intra- and interfaith dialogues as a key means of promoting tolerance and understanding and rejecting violence. In relation to this, he underscored the role of religious leaders in this process, but also more general promotion of education-based and community-driven efforts. Particular emphasis was placed on the empowering of youth and women through fostering their participation in political and decision-making processes.

42. The Secretary-General also addressed concerns relating to the internet and social media. His recommendations in this regard focused on the development and implementation of national communications strategies that curb the misuse of the internet and social media for the spread of violent extremism while also protecting values of tolerance, pluralism, and freedom of opinion and expression.

43. The Secretary-General finally addressed the topic of United Nations support for Member States, regional bodies and communities with recommendations that advocated, *inter alia*, greater inter-agency cooperation and synergy in the implementation of the Global Counterterrorism Strategy. He also made recommendations aimed at offering capacity-building programs with the goal of strengthening national and regional capacities through the sharing of good practices, assistance in the adoption and implementation of relevant legislation and policies, and the development of programmes to promote education, soft skills and literacy.

44. In conclusion, the Secretary-General asserted that the effectiveness of measures to prevent violent extremism will hinge on the agility of policy-making and implementation efforts in countering the evolving threat of violent extremism as well as the comprehensiveness of the approach to tackling the problem. He also saw the threat of violent extremism as an opportunity for members of the international community to unite, harmonize their actions, and pursue inclusive approaches in the face of division, intolerance and hatred.

## **V. Consideration of the UN Secretary-General's Plan of Action at the UN General Assembly's Seventieth Session**

45. The UN Secretary-General's Report and Plan of Action to Prevent Violent Extremism were considered by the Plenary of the UN General Assembly at its Seventieth Session in the 84<sup>th</sup> and 85<sup>th</sup> meetings. While the Report and Plan of Action were generally welcomed by the Member States, several States, particularly Asian and African States had comments relating to areas that they thought the Report had not fully addressed.

46. One comment pertained to the dearth of recommendations and proposals for UN involvement in assisting States with the formulation and implementation of national plans of action. Being that violent extremism is a global and transnational phenomenon that neither respects nor is confined by borders, the delegates in question felt that the recommendations needed to include points of contact and assistance from the United Nations to its Member States in addition to prescriptions for national plans.

47. Another comment made by delegates related to issues of foreign occupation, protracted conflict and systematic human rights abuses. The delegates in question noted that while the report touched on these issues it refrained from naming particular examples. Several delegates agreed that foreign occupation, such as the one in Palestine, was a major driver of violent extremism. Additionally, it was felt by these delegates that while the report focused on local drivers of extremism, there was a regrettable lack of coverage of major international trends including illicit financial flows. On a similar note, several delegates emphasized the need to address the root causes of violent extremism, including the historical injustices of colonialism, foreign

occupation and denial of self-determination, stressing that it could not be defeated by military actions alone.

48. On the issue of human rights some delegates felt that issues concerning xenophobia, discrimination, stereotyping, intolerance and stigmatization had not been given adequate emphasis in the report. The delegates lamented what they felt was a rising tide of Islamophobia and intolerance and noted that more emphasis needed to be placed on addressing these issues.

49. Some delegates focused on strengthening inter-agency coordination and the importance of avoiding practices that substituted process for outcome. It was felt that all Member States must agree on a common strategic approach to fighting violent extremism and terrorism. They must not lapse into bureaucratic and cyclical practices, but rather demonstrate the political will and commitment to closing ranks and making a determined effort to overcome the challenge. The building blocks for enhancing international cooperation in those areas must be recognized, particularly the 14 sectoral conventions on the suppression of terrorism created by the Assembly's *Ad hoc* Committee on Measures to Eliminate International Terrorism. Additionally, the existence of possible gaps in the existing sectoral conventions and the failure to muster the political will to break the current impasse over a draft comprehensive convention on international terrorism were issues that needed to be addressed.

50. Eventually, a procedural draft resolution was adopted by the 193-nation Assembly wherein it was decided to “give further consideration” to the plan, including in other relevant forums, such as the Global Counter-Terrorism Strategy review in June 2016. Several Member States looked forward to continuing discussions at the International Conference on the Plan of Action that the Swiss Government had offered to co-organize with the United Nations in Geneva in April 2016.

## **VI. Comments and Observations of the AALCO Secretariat**

51. While Violent Extremism has only taken centre-stage in discussions at the international level over the past three years, research into the phenomenon and its drivers is more than a decade old at this point. Despite the lack of a universally-accepted definition of the term itself, counter violent extremism (CVE) and prevention of violent extremism (PVE) measures have seen implementation in various States for a considerable length of time and studies on the topic have yielded a fairly cohesive understanding of the problem from a policy standpoint and in terms of its relationship with terrorism. This convergence of thought goes a long way towards explaining why the recommendations of UN Secretary-General Ban Ki-moon and the Principles and Guidelines drafted by the AALCO Secretariat show a significant degree of similarity.

52. Violent Extremism is, so to speak, a separate conceptual entity from terrorism, although the two concepts are intricately linked. Violent Extremism as a construct is also intimately connected to the concept of “Radicalization”, and fully understanding Violent Extremism may involve acknowledging its relationship to Radicalization. UN Security Council Resolution 2178 repeatedly asserts that violent extremism is

“conducive to terrorism.”<sup>9</sup> In this way, Resolution 2178 has established that violent extremism is an environmental substrate of terrorism in the sense that the existence of violent extremism breeds terrorism, although the two are themselves different in the way that they manifest. Resolution 2178 also broadly specified measures that need to be taken to counter violent extremism, which are in-line with the UN Secretary-General’s Plan of Action. These measures encompass “community engagement, development, education, strategic communications, and public-private partnerships intended to reduce the appeal of and support for extremist groups, and enhance resilience against them.”<sup>10</sup>

53. These CVE efforts are therefore more akin to developmental measures than they are to security and legal measures due to their focus on and promotion of human rights, civil society engagement and community resilience.<sup>11</sup> In fact, on 23 November 2015, the United Nations Development Programme (UNDP) Regional Bureau for Africa launched an initiative to support African countries to prevent and respond to the growth of violent extremism through a development lens.<sup>12</sup> This line of thought is also represented by the UN Secretary-General in his focus on Sustainable Development Goals.

54. Recent developments serve to highlight the use of the violent extremism paradigm by the United Nations to shift the emphasis of counterterrorism efforts to the underlying causes of terrorism. In the words of Jehangir Khan, Director of the UN Counter-Terrorism Implementation Task Force (CTITF) and the UN Counter-Terrorism Centre (UNCCT) in the Department of Political Affairs (DPA), “the focus had been on countering terrorism, emphasis on ‘counter’. This approach was too reactive. There is a shift to a more integrated policy of preventing violent extremism, emphasis on ‘preventing’.”<sup>13</sup> Violent extremism is thus to be treated, in a broad conceptual manner, as the primordial soup that gives rise to terrorism.

55. However, while effective solutions to violent extremism encompass areas of policy that exceed AALCO’s mandate, research into the legal dimensions of the problem reveal a recurring set of themes that are linked with the pillars of the UN Global Counterterrorism Strategy. The first theme recognizes the need to prevent conflicts that will engender and encourage widespread violent extremism by creating the economic, and social conditions that promote radicalization amongst people affected by these conflicts. Additionally, addressing trans-border security threats such as terrorism financing, drug trafficking and organized crime are established means of combating terrorism that also find application in preventing radicalization and the spread of violent extremism.

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<sup>9</sup> See, for instance, S/RES/2178 (2014), operative paragraph 15 and 18

<sup>10</sup> Naureen Chowdhury Fink, “Countering Violent Extremism: What are the key challenges for the UN?”, IPI Global Observatory, 3 November 2015, available at <<http://theglobalobservatory.org/2015/11/countering-violent-extremism-united-nations-ban-ki-moon/>>.

<sup>11</sup> Ibid.

<sup>12</sup> “UNDP Africa launches initiative to help prevent and respond to violent extremism”, press release available at <<http://www.undp.org/content/undp/en/home/presscenter/pressreleases/2015/11/23/undp-africa-launches-initiative-to-help-prevent-and-respond-to-violent-extremism-.html>>.

<sup>13</sup> “Uprooting Terrorism: Countering violent extremism through prevention”, available at <<http://www.un.org/wcm/webdav/site/undpa/shared/undpa/pdf/DPA's%20Politically%20Speaking%20on%20Terrorism.pdf>>.

56. Social and economic marginalization is one of the main contributing factors to the spread of violent extremism and radicalization. Inasmuch as it is legally possible, efforts must be made towards the alleviation and redressal of these factors through social inclusion, poverty reduction, and the realization of Sustainable Development Goals.

57. The promotion of tolerance and dialogue is connected with both human rights and social-inclusion aspects of CVE efforts. It is important that certain aspects of modern societies, particularly diversity and tolerance for diversity, are promoted. The promotion of tolerance and equality as well as the prevention of xenophobia and discrimination against people of different religions and ethnic groups is important to prevent the spread of violent extremist ideologies and radicalization through the engendering of hatred and mistrust.

58. Ensuring respect for and promoting human rights and the Rule of Law is both a means and an end. As mentioned above, the promotion of respect for human rights is important for 3 main reasons. *Firstly*, The protection of the human rights of victims of violent extremism is important because violent extremism is itself often an attack on the fundamental human rights of persons. Stronger mechanisms to promote and protect the rights of vulnerable groups may lead to benefits in counter violent extremism measures. *Secondly*, due to the fact that the roots of violent extremism are embedded in conditions such as poverty and social exclusion, the protection and promotion of human rights, including economic, social, political, religious and other rights, works to counteract the onset of radicalization and the spread of violent extremism, as does the promotion of equality and non-discrimination. *Thirdly*, respect for human rights should also be an inherent part of the measures taken to counter violent extremism. Radicalization is a vicious cycle that may be continually propagated through the violation of rights by authorities. Respect and promotion of human rights is, despite being a fine balancing act, also an important part of efficient and effective counter-violent extremism measures.

59. The respect for and promotion of the Rule of Law is also important as violent extremism is, in addition to being an attack on fundamental human rights, an attack on the governance machinery of the individual States as well as the international legal order. Strengthening both the effectiveness of the domestic and international legal order, as well as increasing their visibility as fair and just systems and enhancing trust and transparency of the system, will be crucial to combating the viability of violent extremism as a perceived outlet against social injustice.

60. Ultimately, the eradication, or at least the mitigation, of violent extremism will require an all-of-society approach to the problem rather than just the criminalization of violent extremism. Achievement of this end-goal will require internal coordination between governmental bodies, civil society and the private sector, as well as international and regional cooperation between States. To this end, the AALCO *Principles and Guidelines/Guiding Principles to Combat Violent Extremism and its Manifestations* may play a key role in providing a roadmap and springboard for the process to begin in the Asian and African regions. Additionally, the prospective successful conclusion of the AALCO *Principles and Guidelines/Guiding Principles* may serve as a model for regional cooperation in countering the spread of the terrible blight of extremism that might be of interest and serve as a point of reference for

other regional and international instruments. The AALCO Secretariat continues to look forward to mandates from its Member States directing its continuing work on the topic of Violent Extremism and Terrorism and to being a conduit and catalyst for legal cooperation between States in the African and Asian regions in this regard.

## VII. ANNEX

AALCO/RES/55/DFT/S 9  
20 MAY 2016

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

## **I. Principles**

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

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

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

## II. Guidelines

Member States of AALCO endeavor to:

1. *Identify* the **[root causes]/[drivers and elements]** of violent extremism and radicalization **[, including unresolved conflicts,] [at the local and international level] [, taking into account all elements leading to their emergence and spread]**.
2. *Abide* by their international and domestic human rights obligations relevant to the protection of the fundamental human rights and freedoms of all persons.

3. *Promote* the values of equality, diversity and tolerance for all persons without discrimination on the basis of race, religion, ethnicity, or nationality and culture at the domestic, regional and international levels.
4. *Amend or Adopt* necessary legislations to deal with practices that instigate violence, xenophobia, racism and religious hatred.
5. *Encourage*, in accordance with their respective laws and regulations and policies, intelligence, information, and knowledge-sharing, anti-terrorism policy dialogues and law enforcement cooperation, to identify violent extremist individuals and groups, monitor their activities, and provide options to counter the threat posed by them.
6. *Refrain* from committing or acquiescing in any acts aimed at organizing, supporting or financing violent extremist groups, or from inciting violent extremism **[and its manifestations]/[or terrorist acts]**.
7. *Take effective measures* to prevent extremist individuals and groups from finding safe havens within their territories.
8. **[Consider criminalizing the existence of violent extremist groups and membership in such groups in accordance with national laws and regulations.]**
9. *Suppress* the funding of violent extremist groups through, *inter alia*, money laundering and the trafficking of artifacts, as well as the conduct of trade and commerce with such groups, by introducing and enforcing necessary legal measures.
10. *Establish* necessary legal and implementation frameworks to avert and deal effectively with the activities of violent extremist individuals or groups, and to eliminate the influence of these individuals or groups.
11. **[Take appropriate measures to stop the use of the internet and social media as a tool for radicalization, for the propagation of violent extremist of violent extremist ideologies, for recruitment to violent extremist causes, and for the incitement of violence, while also protecting the fundamental rights, including freedom of speech, right to access to information.]**
12. **[Take appropriate measures to prosecute the acts of violent extremism, as well as to cooperate in the extradition of offenders thereof for criminal trial under applicable bilateral and multilateral treaties, and to assist in investigations and criminal proceedings through mutual legal assistance**

**as appropriate, in accordance with international obligations as well as national laws and regulations of Member States.]**

13. *Recognize* the need for the de-radicalization of violent extremists in order to counter the threat of radicalization, and take measures, in accordance with national laws and regulations, to effect de-radicalization through, *inter alia*, rehabilitation and reintegration of radicalized persons, including those in prison.
14. *Cooperate* to expedite the negotiation and conclusion of the Draft Comprehensive Convention on International Terrorism.
15. *Take* the necessary measures to carry out their international anti-terrorism obligations through their domestic legal systems.
16. *Cooperate and participate* in the creation, if necessary, of regional or inter-regional instruments to combat violent extremism **[and its manifestations]**.