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1. Introduction & Context

SHOAA for Human Rights welcomes the opportunity to contribute to the Special Rapporteur's consultation on the definitions of *"terrorism," "terrorist organisation,"* and *"violent extremism."* This submission focuses exclusively on **Algeria**, where counter-terrorism and "anti-extremism" legislation has been increasingly used to restrict civic space and to criminalise peaceful human rights work.

SHOAA is a London-based human rights organisation documenting violations and advocating for the protection of human rights defenders (HRDs), lawyers, journalists, activists, and civil-society actors in Algeria. Our analysis draws on systematic case-monitoring and legal review of Algerian legislation, in particular the Penal Code and laws on associations and cybercrime.

1.1. Algeria's expanding counter-terrorism framework

Algeria's counter-terrorism framework is primarily set out in **Articles 87 bis to 87 bis 14 of the Penal Code**, originally adopted by Ordinance No. 66-156 of 8 June 1966 and repeatedly amended, including in 2014 and 2021.

The June 2021 amendments broadened the definition of terrorism to include, inter alia, acts that:

- "aim at State security, national unity or the stability and normal functioning of institutions," or
- seek to "gain power or change the system of governance by non-constitutional means," or
- "undermine the integrity of the national territory or incite others to do so."

These formulations are much wider than the core violent conduct that is typically associated with terrorism in international practice and have allowed authorities to use terrorism provisions against peaceful protesters, political opponents, journalists, and HRDs.

In parallel, **Article 87 bis 13** establishes a national list of persons and entities involved in terrorism, allowing the authorities to list individuals and groups based on terrorism-related allegations, with serious consequences for their rights, including asset-freezing and other restrictions.

1.2. International criticism and UPR recommendations

During Algeria's **4th Universal Periodic Review (UPR)** in November 2022, multiple States and stakeholders expressed concern about the *overly broad* definition of terrorism in Article 87 bis and recommended that Algeria **clarify or abrogate Article 87 bis** and bring the definition of terrorist and subversive acts into line with international standards.

A summary report on Algeria's UPR, for example, explicitly recommends:

> "Clarify the definition of terrorist and subversive acts in the legislation" and "abrogate Article 87 bis of the Criminal Code defining crimes qualified as terrorist or subversive acts."

UN experts and NGOs have likewise called on Algeria to reform Article 87 bis and related provisions, stressing that their breadth allows criminalisation of peaceful activism and dissent.

1.3. April 2024 Penal Code amendments

Despite these concerns, **new amendments to the Penal Code were adopted on 2 April 2024**, promulgated on 5 May 2024, which **further escalated restrictions on freedom of expression and civic space**.

These are the 2024 amendments:

- introduce new offences in Articles **63 bis, 63 bis 1, 63 bis 2**, criminalising the disclosure of broadly defined "confidential information" relating to national security, defence or the economy, including when shared on social media, with penalties of up to life imprisonment;

- expand Article **96** (propaganda materials "likely to harm the national interest"), and tighten provisions on "foreign-origin" content;

- increase restrictions in Articles **144, 146 and 149 bis 21**, criminalising insults or statements perceived as harming the honour of public officials, institutions, or security services;

- amend Article **100** on "direct provocation to an unarmed gathering," explicitly covering expression via information and communication technologies.

These amendments do not narrow Algeria's counter-terrorism framework; instead, they **add new, vague speech offences** and reinforce a legal environment in which terrorism-related provisions, including Article 87 bis and 87 bis 13, are used alongside other Penal Code articles to silence critical voices.

Many organisations have described the April 2024 amendments as part of a broader pattern of legal reforms that **deepen repression ahead of the 2024 presidential election**, rather than implementing the UPR recommendations on Article 87 bis.

1.4. Associations law and cybercrime legislation

The counter-terrorism framework interacts with other restrictive laws:

- **Law 12-06 of 12 January 2012 on Associations** imposes a prior authorisation regime, broad grounds for refusal and dissolution, and tight control over international cooperation and funding.
  Analyses by many organizationsl show that Law 12-06 is systematically used to constrain independent civil society and has led to the dissolution of organisations such as RAJ and

others.

- **Cyber-related provisions** in the Penal Code and specific cybercrime legislation are increasingly used to prosecute online expression. Article 196 bis (spreading "false news"), as well as cyber-provisions on unauthorised access and digital speech, are regularly combined with Article 87 bis to target journalists, online activists and HRDs.

Reports by Algerian and regional NGOs, document numerous cases where **peaceful online activity is treated as terrorism-related conduct**, with charges such as "membership in a terrorist organisation" (Article 87 bis 2 and 3), "undermining national unity" (Article 79), and "incitement to unarmed gathering" (Article 100) brought against HRDs, trade unionists and journalists.

1.5. Impact on civic space

Taken together, these laws and amendments have created a context in which peaceful protest, human rights advocacy, trade-union activity, journalistic and academic work, and cooperation with international organisations, can be framed as *terrorism*, *membership in a terrorist organisation*, or *extremism-related* activity.

Many organizations report hundreds of individuals detained or prosecuted in recent years for peaceful speech or activism, many under Article 87 bis and related provisions.

2 . PHYSICAL CONDUCT ELEMENTS (ACTUS REUS) THAT SHOULD DEFINE TERRORISM

2.1. Terrorism must be defined through a narrow set of serious violent physical acts

SHOAA submits that the *actus reus* of terrorism should be strictly confined to **serious violent conduct**, in line with:

- **UN Security Council Resolution 1566 (2004)**
  (Limits terrorism to acts intended to cause death/serious bodily harm, or hostage-taking.)
- **International Convention for the Suppression of Terrorist Bombings (1997)**
- **Terrorist Financing Convention (1999)**
- **Special Rapporteur on Counter-Terrorism (A/HRC/34/61)**
- **Human Rights Committee General Comment No. 34**

Across these instruments, a consistent pattern emerges: terrorism is tied to **grave violence**, not political dissent, activism, or disruption.

SHOAA therefore recommends the following exclusive list of physical elements:

1. **Intentional killing** of civilians or protected persons.
2. **Causing serious physical injury**, including permanent impairment or life-threatening harm.
3. **Hostage-taking**, including detention of individuals under threat of harm.
4. **Use of explosives, firearms, chemical agents, or other weapons** in a manner capable of causing mass casualties or severe physical harm.
5. **Attacks on infrastructure** only when they create a *clear and imminent risk* of death or serious bodily injury.

This reflects the international consensus and avoids definitional inflation.

2.2. Should psychological harm or mental suffering be included?

SHOAA strongly recommends **NO**, unless psychological harm arises directly from **violent acts**, such as:

- torture,
- hostage-taking,
- bombing attacks,
- violent assaults.

Why psychological harm alone must not count:

1. It is **too subjective**, leading to unpredictable criminalisation.
2. It can be manipulated to target dissent.
3. It resembles vague offences such as “undermining public morale” or “disturbing public order,” commonly misused in authoritarian settings.

Algeria provides a clear example of this risk

Article **87 bis** treats non-violent expression or association as conduct "harming national unity" or "threatening State stability," which Algerian authorities interpret as causing "psychological harm" to society or institutions.

This has led to:

- HRDs prosecuted for social media posts,
- journalists accused of "terrorising public opinion,"
- associations treated as threats to "public morale."

Therefore, psychological harm **cannot** be an independent basis for defining terrorism.

2.3. Should the definition list specific criminal acts, or refer broadly to any act causing death/injury?

SHOAA advocates for **specificity**.

A human-rights compliant definition must explicitly list:

- murder
- grievous bodily harm
- hostage-taking
- explosive or weaponised attacks
- attacks on infrastructure posing a lethal risk

Why broad language is dangerous

Terms such as:

- "any act harming the State,"
- "any unlawful act that undermines security,"
- "any action disrupting institutions,"

allow governments to bring terrorism charges for:

- peaceful protest
- labour strikes
- academic speech
- social media posts
- NGO cooperation with international bodies

Algeria's Article 87 bis illustrates this danger

Article 87 bis criminalises:

- acts "aimed at harming State security,"
- acts "affecting national unity,"
- actions "undermining normal functioning of institutions,"
- working with "non-accredited organisations,"
- possession of certain publications or online material.

This broad drafting has allowed the State to treat:

- human rights reporting,
- assisting UN mechanisms,
- peaceful activism

as terrorism.

Therefore, SHOAA urges the Special Rapporteur to recommend **a closed list of physical elements**, not an open-ended one.

2.4. Should terrorism include acts “endangering” life, health, or public safety?

SHOAA supports including “endangerment” only under strict conditions:

1. The act must create a **clear, imminent, and identifiable risk** of death or serious physical injury.
2. The risk must be **objective and measurable**, not political or subjective.
3. The danger must not be speculative or based on “public order” notions.

Why a narrow endangerment clause is essential

International practice recognizes offences of “creating a serious risk” (e.g. airline sabotage). However:

- authoritarian governments routinely misuse “endangerment of public safety” to suppress protests, marches, journalism, or dissent.

Algeria’s Penal Code proves the risk

Article 87 bis criminalises acts:

- “intended to disturb public order,”
- “affecting the normal functioning of institutions,”
- “undermining national unity,”
- “encouraging gatherings,”

all framed as “endangerment to the State.”

Such vague “endangerment” clauses have led to the arrest of:

- peaceful demonstrators,
- lawyers documenting violations,
- journalists covering protests.

Therefore, **only genuinely life-threatening conduct** should count.

2.5. Should property damage be included?

SHOAA recommends: Yes, but only when it creates serious risk to life.

Property damage alone cannot constitute terrorism unless it:

1. Involves **means inherently likely to cause death or injury** (e.g. explosives).
2. targets property whose destruction creates **foreseeable lethal risk** (e.g. hospitals, energy facilities).
3. causes **massive, objectively verifiable economic destruction** that affects essential services.

Excluded forms of property damage must include:

- vandalism
- symbolic protest
- graffiti
- blocking roads
- occupying public space
- minor damage to public buildings
- online disruptions without physical consequences

Algeria's misuse demonstrates why limits are essential

Algerian courts have prosecuted activists for:

- "inciting gatherings,"
- "harming institutions,"
- "possession of materials undermining national unity,"
- "disrupting public order,"

and treated these as “violence against the State” or “property-related threats.”

These serve as de facto property-damage terrorism charges.

Therefore, property damage must only qualify when **human life is put at risk**.

2.6. Should acts against critical infrastructure be included?

SHOAA supports inclusion under a restricted definition:

Critical infrastructure = systems whose disruption creates immediate risk of large-scale physical harm, such as:

- water treatment systems
- electricity grids
- hospitals
- emergency-response systems
- air traffic control
- nuclear facilities
- transport safety systems

Algeria exemplifies misuse

Authorities routinely label State institutions (Ministry buildings, courts, police, public media) as “critical infrastructure,” allowing peaceful criticism to be framed as attacks “undermining State institutions.”

This shows why “critical infrastructure” must be tightly defined.

2.7. Should terrorism cover acts against financial and electronic systems?

SHOAA supports inclusion only under strict thresholds:

Cyber or financial attacks should qualify as terrorism **only when**:

1. They directly endanger life (e.g., disabling hospital IT systems).
2. They damage essential services (energy grid, emergency communication).
3. They cause major financial collapse with widespread public harm.
4. They are executed using methods inherently capable of mass harm (e.g. malware targeting critical utilities).

Exclusions:

- political speech online
- “foreign funding” of NGOs
- creating or sharing critical content
- whistleblowing
- information-sharing with UN bodies
- peaceful digital organising

Algeria’s 2023 Cybercrime Law & 2024 amendments illustrate the danger

Authorities use cyber provisions to prosecute:

- online criticism of institutions,
- communication with international NGOs,
- digital documentation of human rights violations,
- participation in peaceful online campaigns.

Such actions are labelled “digital extremism” or “digital terrorism.”

Thus, cyber elements must be defined **exclusively** around *physical danger* and not *speech*.

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OVERVIEW — SHOAA'S RECOMMENDED ACTUS REUS DEFINITION

Terrorism must include **only**:

1. Acts causing:

- death
- serious physical injury
- hostage-taking

2. Acts creating:

- imminent, objective risk to life or serious injury

3. Property destruction only when:

- inherently lethal
- or likely to cause death/injury
- or causing massive systemic harm

4. Attacks on critical infrastructure when:

- disruption endangers life or essential services

5. Cyber/financial attacks when:

- they cause lethal risk or catastrophic collapse

Explicit exclusions:

No definition should include:

- peaceful protest

- political criticism
- digital expression
- civil society activity
- trade-union work
- NGO cooperation with international bodies
- “extremism” understood as dissent
- “moral harm,” “public order,” or “national unity”

These categories replicate the overbreadth of Algeria’s Article 87 bis, widely condemned under the UPR and by Special Procedures.

3 . MENTAL ELEMENTS (MENS REA) OF TERRORISM

3.1. Should international law more specifically define the mental element of terrorism?

Yes. SHOAA strongly recommends that **international law must expressly define the mental element (mens rea)** of terrorism to prevent governments from politicising, manipulating, or expanding the concept of “terrorist intent.”

Why a clear international definition is necessary

1. **Current national approaches vary widely** and many States interpret “intent” in an overly broad or subjective manner.

2. **Vague or politically defined intent** allows governments to criminalise dissent, as seen in Algeria under **Penal Code Article 87 bis**, where peaceful conduct is labeled as “intent to harm national unity,” “intent to destabilise institutions,” or “intent to undermine State security.”

3. **Internationally harmonised standards** would provide a check against abusive interpretations by national authorities.

4. Without a clear intent requirement at the international level, counter-terrorism frameworks risk becoming **tools of repression**, especially in contexts where “terrorist purpose” is defined ideologically rather than factually.

Evidence from Algeria: Why national discretion is dangerous

Article **87 bis** allows prosecutors to infer intent from:

- criticism of authorities,
- participation in protests,
- online speech,
- cooperation with international NGOs,
- receiving foreign funding,
- membership in civil society,
- contact with UN mechanisms.

The *presumed* "intent to undermine the stability of the State" is applied even in cases with **no violence, no threat of violence, and no objective risk to life**.

This demonstrates why mens rea **must not be left entirely to national jurisdictions**.

3.2. What should be the appropriate scope of "intent" (and knowledge) in terrorism?

The mental element must be composed of two components:

1. **Intent to commit the violent act itself**, and
2. **Intent to intimidate a population or compel a government/international organisation**.

This dual element is recognised across:

- UNSC Resolution 1566 (2004),
- SRCT reports (A/HRC/34/61),
- international criminal law principles,
- comparative jurisprudence (UK, Canada, South Africa).

SHOAA therefore proposes the following rule:

Terrorism requires BOTH:

1. **Intentional engagement in a violent act**, AND
2. **A specific purpose to intimidate a population or coerce a government/international organisation.**

What intent must NOT include:

- intent to "disturb public order,"
- intent to "undermine national unity,"
- intent to "affect social cohesion,"
- intent to "harm the reputation of institutions,"
- intent inferred from speech, ideology, association, or peaceful protest,
- political or ideological disagreement with the government.

Algeria provides a clear warning

In practice, Algerian authorities interpret "terrorist intent" to include:

- expressing dissent,
- supporting democratic reforms,
- participating in peaceful Hirak protests,
- posting criticism online,
- reporting human-rights violations,
- contacting international organisations.

The intent requirement is **politicised** and detached from violence.
This shows that intent must be **internationally defined**, not left ambiguous.

3.3. Should terrorism require that the harmful outcome be deliberate?

Yes, SHOAA recommends that the harmful outcome be deliberate.

The violent outcome, death, serious physical injury, hostage-taking,must be:

- **directly intended**, OR
- **knowingly and willingly accepted** as a highly probable consequence.

Why?

1. Terrorism is a category of **intentional extreme violence**.
2. Accidental or unintended consequences do not meet the moral and legal gravity required to justify the terrorism label.
3. A clear intention requirement prevents the misuse of terrorism laws against:
    - reckless behaviour,
    - disruptive protest,
    - civil disobedience,
    - property damage without lethal risk,
    - symbolic or expressive acts.

SHOAA therefore recommends:

- The outcome must be **intended**, OR
- The perpetrator must have **knowledge** that serious harm is **virtually certain** to occur.

This aligns with general principles of criminal responsibility found in:

- International criminal law,
- Comparative anti-terrorism legislation.

3.4. Is it ever sufficient that death/injury is highly likely even if not specifically intended?

SHOAA recognises that under international criminal law:

- **dolus eventualis** (knowledge of a highly probable outcome) may satisfy mens rea in extreme cases.

But ONLY when:

1. The underlying act is inherently violent, such as:

- use of explosives,
- arson in a building likely to be occupied,
- sabotage of essential infrastructure.

2. The person knew or accepted that serious harm was very likely to result.

NOT acceptable:

- protest that unintentionally obstructs roads,
- symbolic property damage,
- accidental injuries during demonstrations,
- civil disobedience actions with no intent to harm,
- online activity,
- NGO work or journalism,
- criticism of institutions.

Why?

Because States, including Algeria, misuse “likely harm” to artificially elevate peaceful actions into “terrorism,” arguing that:

- protests “risk destabilising institutions,”

- online criticism “risks public disorder,”
- civil society “risks harming national unity,”
- human-rights reporting “risks foreign interference.”

Thus, the application of a “likely harm” standard must be **tightly restricted**.

3.5. SHOAA’s Recommended International Mens Rea Standard

A human-rights compliant definition should require:

A. Intent (purpose) requirement

The perpetrator must:

1. Intend to commit a violent act (killing, serious injury, hostage-taking), AND
2. Intend to intimidate a population or compel a government/international organisation.

B. Knowledge requirement

The perpetrator must:

- know that the act will almost certainly cause death or serious injury, and
- proceed despite this knowledge.

C. Explicit exclusions

The following may *never* constitute terrorist intent:

- criticism of the State
- peaceful protest
- online speech
- human-rights documentation
- union activity

- political opposition
- cooperation with international mechanisms
- ideological disagreement
- “extremism” defined as beliefs or affiliations
- “undermining national unity” or “social cohesion”
- “disturbing public order”

These exclusions are essential to avoid reproducing the abuses seen in Algeria under Article 87 bis.

3.6. Why ambiguity in intent is dangerous — Algeria as a case study

Under Article 87 bis and the 2024 legal amendments:

- intent is inferred from slogans, posts, associations, or criticism;
- “terrorist purpose” is interpreted as disagreement with the government;
- journalists and civil-society actors are prosecuted based on alleged intent to “harm State stability”;
- peaceful actions are reclassified as “violent” through presumed political motives.

This proves an important point:

Without clear intent requirements, “terrorism” becomes a tool to suppress fundamental freedoms.

Therefore, SHOAA strongly urges the Special Rapporteur to propose a **precise, internationally harmonised definition of mens rea** that protects human rights.

4 . SPECIFIC INTENT (PURPOSE) ELEMENTS OF TERRORISM

4.1. What "specific intent" should define terrorism?

SHOAA submits that terrorism must include a **specific intent (purpose)** element that goes beyond the intent to commit the physical act. This reflects consistent practice across the **UN Security Council**, **UN counter-terrorism treaties**, **regional instruments**, and **Special Rapporteur jurisprudence**.

International instruments commonly identify three potential purposes:

1. **Intimidating a population**
2. **Compelling a government or international organisation**
3. **Destabilising public order or political structures**

After examining legality, consistency, and risk of misuse, SHOAA supports including **only the first two**:

A. Intimidating a population

→ creating fear of death or serious physical harm among civilians.

B. Compelling a government or international organisation to act or refrain from acting

→ through serious violent pressure (not through protest, advocacy, or political activism).

These two reflect a clear global consensus and express the essential character of terrorism as **violence directed toward civilians for political objectives**.

Why only these two specific intent elements should be included

1. They are the only purposes recognised consistently across international law

Both intent elements appear in:

- UNSC Resolution 1566 (2004)

- The Terrorist Financing Convention (1999)
- The Convention on Terrorist Bombings (1997)
- EU Framework Decision on Terrorism (2002)
- African Union model laws
- OSCE/ODIHR guidelines
- SR on Counter-Terrorism reports (A/HRC/31/65; A/HRC/34/61)

This reflects a **global consensus** on the nature of terrorist purpose.
No other purpose has comparable clarity or legitimacy.

2. They comply with the principle of legality

International human-rights law (ICCPR Article 15) requires criminal offences to be:

- clear,
- predictable,
- non-ideological,
- narrowly tailored.

“Intimidation” and “coercion” meet these requirements because they:

- can be objectively established,
- require a demonstrable connection to violence,
- do not rely on subjective political interpretation.

3. Broader purposes are vague and easily misused

Purposes such as:

- “destabilising public order,”
- “undermining national unity,”
- “threatening social cohesion,”
- “harming the authority of the State,”
- “propagating extremist ideas,”

are **inherently subjective** and enable governments to criminalise:

- peaceful protest,
- criticism of institutions,
- online speech,
- human rights work,
- academic research,
- trade-union activity,
- political opposition.

Algeria’s Article 87 bis demonstrates the danger

Algeria defines terrorist purpose to include acts:

- “undermining State security,”
- “harming national unity,”
- “destabilising institutions,”
- “affecting public order,”
- “working with non-accredited organisations.”

These terms have been used to prosecute:

- peaceful Hirak protesters,
- journalists and bloggers,
- human-rights defenders,
- union organisers,
- civil-society activists,
- people cooperating with UN mechanisms.

This systematic misuse shows why terrorism's purpose element must be internationally fixed and strictly limited.

4. The two permitted purposes fully capture the nature of terrorism

Terrorism is defined by its **political motive and its violent means**.
The two valid purposes correspond to this duality:

- **violence directed at civilians (intimidation)**
- **violence directed at political structures (coercion)**

No broader purpose is necessary or legally justified.

4.2. Is it duplicative to refer to both "provoking a state of terror" and "intimidating the public"?

Yes.

These concepts significantly overlap.

- "Provoking a state of terror" implies widespread fear of violent harm.
- "Intimidating the public" already includes this effect.

Including both:

- creates redundancy,
- increases interpretative inconsistency,
- risks overbroad application.

SHOAA's recommendation:

Use **only** the term **"intimidating a population"**, understood as creating fear of death or serious injury.

Algeria illustrates the risk

Authorities claim peaceful speech "terrifies" or "intimidates" the public to justify terrorism charges. Redundant or vague language enables such abuses.

4.3. Does "general public" or "group of persons" adequately cover NGOs, civil society, unions, corporations, etc.?

Yes.

These terms already cover:

- civil-society organisations,
- NGOs and movements,
- trade unions and syndicates,
- professional bodies,
- religious associations,
- minority or diaspora groups,
- corporations and private entities.

Listing categories would:

- make definitions less flexible,
- risk political manipulation,
- allow selective inclusion/exclusion by States.

Algeria example

Authorities classify NGOs, movements, and unions as:

- “groups harming national unity,”
- “coordinated networks undermining State security,”

to prosecute their members.
This warns against naming entity categories in legal definitions.

4.4. Should terrorism include coercing a government or international organisation?

Yes, but with strict conditions.

Coercing a government is a recognised terrorism purpose, **only when achieved through serious violent acts**.

It must exclude:

- peaceful protest,
- civic mobilisation,
- advocacy,
- labour strikes,
- political criticism,
- litigation or international engagement.
-

Why?

Because authoritarian States, including Algeria, routinely claim that:

- protests,
- human-rights reporting,
- or advocacy

are attempts to “force the State to act,” using this to label peaceful conduct as terrorism.

The definition must require:

- **violence**, and
- **a clear causal link** between violent act and coercive aim.

4.5. Should any other specific intent be included?

No.

Including additional purposes creates a high risk of politicisation and abuse.

Purposes such as:

- “destabilising constitutional order,”
- “challenging institutions,”
- “affecting public morale,”
- “undermining social cohesion,”
- “threatening national unity,”
- “spreading extremist ideology,”
- “influencing public opinion,”

are **vague, ideological, and incompatible with international human-rights law**.

These formulations are used in Algeria's Article 87 bis to criminalise:

- political activism,
- union organising,
- NGO cooperation with UN bodies,
- online expression,
- peaceful assembly.

Therefore:

Only **intimidation of the population** and **violent coercion of governments/international organisations** should qualify.

SHOAA's Recommended International Definition of Specific Intent

> **"Terrorism requires the specific purpose of intimidating a population or compelling a government or international organisation to act or abstain from acting through serious violent conduct."**

This formulation:

- reflects international consensus,
- satisfies legality,
- avoids political manipulation,
- maintains conceptual clarity,
- and prevents the abuses observed under Algeria's Article 87 bis and the 2024 amendments.

5 . SHOULD TERRORISM REQUIRE POLITICAL, IDEOLOGICAL, PHILOSOPHICAL, RELIGIOUS OR RACIAL PURPOSES?

5.1. Should terrorism require a political, ideological, philosophical, religious, or racial purpose?

No, these purposes should NOT be required or explicitly included.

Although the **1994 General Assembly Declaration on Measures to Eliminate International Terrorism** refers to "political purposes," contemporary international law and comparative practice show a strong move **away** from embedding ideological or political motivations within terrorism definitions.

Reasons:

1. These purposes are inherently vague, subjective, and easily politicised

Political, ideological, philosophical, religious, and racial motives:

- are broad and undefined,
- vary across cultures, contexts, and legal systems,
- are open to manipulation by authorities,
- risk transforming terrorism law into a tool against unpopular ideas.

Algeria demonstrates this danger clearly

Under **Article 87 bis**, Algerian authorities equate:

- peaceful opposition,
- human rights advocacy,
- online criticism,
- union activities,
- civil-society work,

with “political motives” hostile to the State, and prosecute actors as “extremists” or “terrorists.”

If ideological or political motives were included in the international definition of terrorism, States could criminalise:

- pro-democracy activism,
- anti-corruption advocacy,
- religious expression,
- minority activism,
- journalistic investigations,
- participation in civil society.

2. Terrorism must be defined by conduct, not beliefs

International law treats terrorism as an offence based on:

- **violent physical acts** (actus reus),
- **specific intent to intimidate or coerce**,

not on the beliefs, ideology, or political aspirations of the actor.

Mandating political or ideological motives would:

- criminalise thoughts or beliefs,
- blur lines between terrorism and protected freedoms,
- violate ICCPR Articles 18, 19, 21, and 22.

3. These motives are irrelevant to distinguishing terrorism from other crimes

The *nature of the act* and the *purpose of intimidation or coercion* already distinguish terrorism from ordinary or organised crime.

Ideological or political labels add no legal clarity.

5.2. If included, should such motives be the exclusive, predominant, or merely one of mixed purposes?

If, contrary to SHOAA's recommendation, any such motives were included, they must **only** be:

A. At most, a minor or supplementary purpose,

not the exclusive, predominant, or significant one.

Why?

- Terrorist actors may have multiple motives (political, personal, financial, emotional).
- Requiring an "exclusive" or "predominant" motive would undermine prosecutions.
- Conversely, allowing such motives to be "one among many" opens the door to abuse.

Thus, the safest legal position is **not to include them at all**.

SHOAA strongly urges the Special Rapporteur to avoid requiring political/ideological motives.

5.3. Do such motives require further definition or judicial interpretation?

SHOAA's position: These terms are too vague to be salvageable and should NOT be used.

If included:

- "Political," "ideological," "religious," "philosophical," and "racial" purposes would require extensive definitional work.
- Even with guidance, courts would interpret them differently across jurisdictions.
- They would inevitably clash with rights to expression, belief, and association.

Algeria shows why these categories are unworkable

Authorities routinely interpret:

- "ideological extremism,"

- “religious deviation,”
- “separatist thought,”
- “political hostility,”
- “cultural manipulation,”

as forms of terrorism under **Articles 87 bis and 87 bis 3**, even when no violence is present.

Judicial discretion does not reduce abuse, it **enables** it.

Therefore:

No amount of judicial interpretation can safely operationalise such motives.

5.4. Would such motives help distinguish terrorism from profit-oriented organised crime?

Not meaningfully.

Terrorism and organised crime already differ in two key ways:

1. Terrorism:

- **violence aimed at intimidating a population**,
- **or coercing a government**,
- political effects achieved through violence.

2. Organised crime (UNTOC):

- **profit-oriented**,
- focused on illicit markets,
- lacking the political coercive element.

These distinctions do not depend on ideological or political motives.

Key point:

> **What distinguishes terrorism from organised crime is the specific intent to intimidate a population or coerce a government, not the underlying ideology.**

A profit-driven gang may commit violent attacks without any political purpose → It is not terrorism.

A politically motivated protester may cause property damage without violent coercive intent → It is not terrorism.

Thus, adding ideological or political motives does **not** improve definitional clarity.

5.5. Should terrorism include organised crime?

No, except in extremely limited circumstances.

Terrorism and organised crime should remain **legally distinct**, as recognised by:

- The UN Convention against Transnational Organized Crime (UNTOC),
- UNODC guidance,
- UN Special Rapporteurs,
- the Financial Action Task Force (FATF).

However, overlap is possible only when:

1. **Organised-crime groups commit violent acts**, AND
2. **These acts are undertaken with the specific intent to intimidate or coerce**, AND
3. **They meet the violence threshold of terrorism.**

In these rare cases, the **act**, not the criminal structure, determines classification.

Algeria's case shows why caution is needed

Under Article 87 bis, Algerian authorities already conflate:

- civil-society networks,
- political movements,
- diaspora collectives,
- professional syndicates,

with terrorist organisations, despite no violence.

This warns against further broadening terrorism to include “organised activity” of any form.

SHOAA’s Recommended Approach

1. **Reject political/ideological/religious/philosophical/racial motives** as definitional elements.
2. **Define terrorism strictly by:**
    - violent act,
    - specific intent to intimidate a population, or
    - specific intent to coerce a government or international organisation.
3. **Keep organised crime under UNTOC**, except when violent acts meet terrorism criteria.
4. **Avoid terminology that allows States to classify peaceful movements as “terrorists.”**

6. NECESSARY EXCEPTIONS AND EXCLUSIONS FROM THE DEFINITION OF TERRORISM

SHOAA submits that the definition of terrorism **must expressly include a set of exclusions (“negative definitional elements”)** to ensure clarity, prevent criminalisation of protected conduct, and align counter-terrorism norms with international human-rights law, international humanitarian law, and long-standing UN practice.

Without explicit exceptions, national authorities, including in Algeria under **Penal Code Article 87 bis**, routinely misinterpret peaceful or legitimate activities as "terrorism."
Therefore, **clear carve-outs are essential**.

6.1. Acts of protest which do not intentionally cause death, serious injury, or hostage-taking

SHOAA's position: These MUST be excluded.

Peaceful protest is protected under:

- **ICCPR Articles 19, 21, and 22**,
- **UN Basic Principles on the Use of Force**,
- **Human Rights Committee General Comment No. 37**,
- **UN Special Rapporteur on Counter-Terrorism reports**.

Rationale

- Non-violent protest, even disruptive protest, is a form of democratic participation.
- States routinely misuse terrorism laws to repress demonstrations.
- Under NO circumstances should protest qualify as terrorism without intentional lethal violence.

Algeria example

Authorities frequently charge peaceful Hirak protesters with terrorism under Article 87 bis for:

- chanting slogans,
- carrying banners,
- assembling without authorization,
- criticizing the government,
- participating in civil-society campaigns online.

This is exactly the type of abuse an explicit exception would prevent.

Recommended formulation

> **"Peaceful assemblies and acts of protest that do not intentionally cause death, serious bodily injury, or hostage-taking shall not constitute terrorism."**

6.2. Provision of humanitarian assistance

SHOAA's position: MUST be excluded, with no ambiguity.

This includes:

- medical aid,
- food, water, shelter,
- evacuation support,
- civilian protection,
- and assistance provided under international humanitarian law.

Why this exception is critical

- Humanitarian actors are often accused of "supporting terrorists."
- Counter-terrorism financing measures already restrict humanitarian work (FATF debates).
- Protection is needed to enable:
    - UN agencies,
    - ICRC,
    - civil-society groups,
    - and diaspora networks to deliver aid safely.
    -

Algeria context

Under 87 bis and the 2024 amendments, humanitarian activities, especially by independent groups, can be labelled “support to extremist organisations” if carried out without State authorisation.

Recommended formulation

> **“The provision of impartial humanitarian assistance shall not constitute terrorism.”**

6.3. Activities of armed forces during armed conflict governed by (and compliant with) international humanitarian law

SHOAA’s position: This MUST be excluded, with the condition of *IHL compliance*.

International law distinguishes:

- **terrorism** (criminal law)
- **armed conflict** (IHL)

The Special Rapporteur (A/HRC/16/51) and the UNSC have repeatedly stressed that:

> **Conduct regulated by IHL cannot simultaneously be defined as terrorism.**

BUT:

- Activities of armed groups **that violate IHL** (e.g., deliberately targeting civilians) **remain prosecutable**, but under *international criminal law*, not *terrorism* law.

Recommended formulation

> **“Activities of parties to an armed conflict governed by international humanitarian law, when compliant with that law, shall not constitute terrorism.”**

6.4. Activities of State military forces in the exercise of official duties (in peacetime)

SHOAA's position: Include with CLEAR safeguards.

While State military actions in official duties should not be labelled as "terrorism," the exception **must not grant immunity for:**

- unlawful killings,
- torture,
- enforced disappearances,
- war crimes,
- excessive use of force.

Why?

Some States mischaracterise internal repression as "counter-terrorism operations."
A vague exemption risks creating legal impunity.

Recommended formulation

> **"Activities of State military forces in the lawful exercise of their official duties shall not constitute terrorism, provided they comply with international human-rights law and international humanitarian law."**

6.5. The struggle for self-determination / national liberation in accordance with international law

SHOAA's position: Include with strict conditions.

This reflects long-standing doctrine, including:

- **UNGA Resolutions 2625, 3314, 3103**,
- **African Union instruments**,
- **ICJ Namibia and Western Sahara advisory opinions**,
- **Third Geneva Convention** (combatant status).

But this protection is not absolute.

SHOAA recommends excluding:

- indiscriminate attacks,
- attacks on civilians,
- prohibited methods of warfare.

The correct standard:

> **"Acts undertaken as part of legitimate struggles for self-determination in accordance with international law shall not constitute terrorism, provided that such acts respect international humanitarian law."**

6.6. Acts in defence of human rights

SHOAA's position: MUST be explicitly excluded.

This exception is essential where counter-terrorism laws are used to punish:

- human-rights defenders (HRDs),
- journalists,
- lawyers,
- trade unionists,
- NGOs,
- whistleblowers,
- individuals engaging with UN mechanisms.

Algeria example: Direct relevance

Under Article **87 bis**, a lot of HRDs have been prosecuted for:

- documenting abuses,

- issuing reports,
- contacting UN Special Procedures,
- working with international NGOs,
- providing legal assistance,
- posting advocacy online.

Authorities claim HRD activities:

- "incite instability,"
- "threaten national unity,"
- "undermine the State,"
- "spread extremist ideas."

This illustrates the need for an **explicit human-rights defender exception**.

Recommended formulation

> **"Peaceful human-rights advocacy, monitoring, reporting, legal assistance, engagement with international mechanisms, and other legitimate activities undertaken for the protection of human rights shall not constitute terrorism."**

SHOAA's Recommended Exclusion Clause (Summary)

To avoid the abuses observed in Algeria and other restrictive contexts, SHOAA recommends that the definition of terrorism explicitly exclude:

1. Peaceful protest and assemblies

(*absent intentional lethal violence*)

2. Humanitarian assistance

3. Conduct governed by IHL in armed conflict

(*when compliant with IHL*)

4. Lawful activities of State military forces

(*subject to IHL & human-rights compliance*)

5. Legitimate struggles for self-determination

(*subject to IHL compliance*)

6. Acts in defence of human rights

(*including engagement with UN mechanisms and civil-society work*)

7 . HOW SHOULD THE DEFINITION OF TERRORISM ADDRESS "STATE TERRORISM"?

SHOAA submits that the issue of "State terrorism" must be addressed with conceptual clarity to avoid confusion between **criminal counter-terrorism frameworks**, **international humanitarian law (IHL)**, and **State responsibility** under international law.

7.1. The possible exclusion of armed forces in armed conflict governed by IHL

Under widely-accepted international practice, acts committed by State armed forces **during armed conflict** are regulated by **international humanitarian law**, not counter-terrorism law. This position is reflected in:

- UN Security Council debates;
- Special Rapporteur reports (A/HRC/16/51; A/HRC/31/65);
- The Terrorist Bombings Convention (Article 19(2));
- The Terrorist Financing Convention (Article 2(1)(b));
- The Geneva Conventions;
- ICRC Commentary on the conduct of hostilities.

Therefore:

Conduct of State armed forces during an armed conflict must not be treated as "terrorism" if the conduct is governed by and compliant with IHL.

BUT:

This exclusion **must not create immunity** for:

- war crimes,
- crimes against humanity,
- genocide,
- attacks on civilians,
- indiscriminate attacks,
- torture,
- enforced disappearances.

Such acts remain prosecutable under **international criminal law**.

Why this matters in Algeria

Algeria regularly treats the actions of non-State actors as terrorism even in contexts that resemble non-international armed conflict, while simultaneously claiming that the conduct of its own armed forces is exempt from scrutiny.

Therefore, the exclusion must be **strictly conditioned on IHL compliance**, not a blanket shield.

7.2. The possible exclusion of State military forces in peacetime

State military forces performing official duties in peacetime should **not** be classified as terrorists **as long as** they comply with international human-rights law (ICCPR, CAT, regional treaties).

However, SHOAA stresses:

A “peacetime” exemption must *not* grant impunity for:

- extrajudicial executions,
- torture,

- excessive use of force,
- mass repression,
- enforced disappearance,
- collective punishment,
- systematic intimidation of populations.

Such acts may constitute:

- violations of the ICCPR,
- crimes under national criminal law,
- crimes against humanity,
- violations triggering State responsibility.

Algeria-specific risk

Algeria's security forces have repeatedly described:

- mass arrests,
- intimidation of protesters,
- digital repression,
- raids on civil-society organisations,

as "counter-terrorism operations."
A vague peacetime exemption risks endorsing these abuses.

SHOAA's recommended safeguard:

> **"Activities of State military forces in peacetime shall not constitute terrorism, provided they comply with international human-rights law and do not involve conduct that is criminalised under international law."**

7.3. Functional immunities of State officials and exceptions

Under customary international law:

- Heads of State, Heads of Government, and Ministers of Foreign Affairs enjoy **immunity ratione personae** before foreign courts.
- Other officials enjoy **immunity ratione materiae** for acts performed in an official capacity.

BUT, these immunities do not apply to:

- genocide,
- war crimes,
- crimes against humanity,
- torture,
- enforced disappearance,
- extrajudicial killings.

This is established in:

- ICJ *Arrest Warrant* (DRC v. Belgium),
- Articles 27 and 98 of the Rome Statute,
- UN Convention against Torture (Article 5–7),
- Inter-American and European human-rights jurisprudence.

SHOAA's position:

Terrorism is a **domestic criminal offence**, not an international crime with universal jurisdiction.
Therefore, immunity rules remain applicable **except** when the conduct also constitutes:

- torture,
- crimes against humanity,
- war crimes,
- extrajudicial killings.

In those cases, **no functional immunity applies**, and officials may be prosecuted under international criminal law, even if terrorism charges are not available.

Algeria relevance:

Officials involved in repression sometimes claim “official capacity.”
Thus, the definition of terrorism must be crafted so that:

- it neither confers new immunities
- nor extends terrorism charges to legitimate State functions.

7.4. How should the definition apply in criminal law vs. State responsibility?

It is essential to distinguish between:

A. Terrorism as a criminal offence (individual responsibility)

This applies to **natural persons** and requires:

- actus reus (serious violence),
- mens rea (intent to intimidate a population or coerce a government),
- criminal procedural guarantees.

States cannot be prosecuted under criminal law.

B. State responsibility for internationally wrongful acts

A State may commit acts that:

- terrorise populations,

- violate the ICCPR,
- breach jus cogens norms,
- amount to widespread or systematic attacks,
- constitute aggression or war crimes.

These **are not criminally prosecuted as "State terrorism"**, but rather as:

- violations of human-rights treaties,
- violations of IHL,
- crimes against humanity (through individual officials),
- wrongful acts triggering reparations and international responsibility.

SHOAA's position:

> **"The definition of terrorism should not create a category of 'State terrorism' in criminal law, but it must not prevent accountability for State violence through the law of State responsibility or international criminal law."**

7.5. SHOAA's Proposed Approach to "State Terrorism"

1. **No criminal category of "State terrorism."**
   States are not criminal defendants; their officials may be prosecuted under other crimes.

2. **Exclusion for IHL-regulated conduct must be conditioned on IHL compliance.**
   No immunity for war crimes or crimes against humanity.

3. **Exclusion for peacetime military activity must be conditioned on human-rights compliance.**
   No protection for torture, extrajudicial execution, repression of protest.

4. **Functional immunity applies only to official acts, not to international crimes.**

5. **State responsibility remains a separate avenue** for:
    - systematic repression,
    - widespread violations,
    - policies that terrorise populations.
6. **Prevent misuse of counter-terrorism laws to hide State abuses.**
   Explicit language must ensure that exceptions cannot be used to shield unlawful repression, as observed in Algeria.

8 . ADEQUACY OF THE UN DRAFT COMPREHENSIVE COUNTER-TERRORISM CONVENTION AND THE PATH TO RESOLVING THE EXCEPTIONS IMPASSE

The **UN Draft Comprehensive Convention on International Terrorism (CCIT)**, negotiated since 2001, represents the most ambitious attempt to codify a universal definition of terrorism. However, despite decades of negotiation, Member States remain divided, primarily over the treatment of **armed forces**, **State military operations**, and **self-determination movements**.

SHOAA submits that while the draft contains useful elements, **its definition remains incomplete, overly broad in some respects, silent in others, and insufficiently harmonised with international human-rights law and international humanitarian law (IHL).**

The Convention's lack of progress demonstrates structural shortcomings that must be addressed before any finalization.

8.1. Is the CCIT definition adequate?

SHOAA's position: Not yet, significant improvements are necessary.

The draft convention's core definition centers on acts intended to cause:

- death,
- serious bodily injury, or
- serious damage to public or private property,

- when intended to intimidate populations or compel governments.

While this reflects many modern counter-terrorism frameworks, several **major problems** remain:

Problem 1: Property damage is defined too broadly

The CCIT includes “serious damage to property” even where no risk to life exists. Without restrictions:

- non-violent sabotage,
- symbolic acts,
- disruptive protest,
- civil disobedience

could be wrongly classified as terrorism.

Algeria example:

Article 87 bis prosecutes peaceful activists for “damage to State interests” or “undermining institutions” absent any violence, precisely the type of misuse the CCIT must avoid.

Problem 2: The CCIT does not include explicit exceptions for:

- peaceful protest,
- humanitarian assistance,
- human-rights advocacy,
- self-determination movements compliant with IHL,
- protected activities under ICCPR Articles 19, 21, and 22.

The absence of carve-outs allows States to weaponize the definition against civil society, a phenomenon observed repeatedly in Algeria.

Problem 3: The draft definition does NOT adequately reconcile IHL and counter-terrorism law

The draft convention attempts to exclude "activities of armed forces during armed conflict" but does so:

- inconsistently,
- without conditioning the exclusion on **IHL compliance**,
- and without addressing activities of *non-State armed groups*.

This gap is one of the central reasons negotiations are deadlocked.

Problem 4: Silence on "State terrorism" but insufficient clarity on State responsibility

The CCIT avoids defining "State terrorism," which is correct at the level of criminal law, but it also:

- does not clarify that State conduct violating IHL and human rights remains prosecutable under **other frameworks**,
- does not prevent States from misusing counter-terrorism laws to hide abuses.

This silence risks shielding State repression under the guise of counter-terrorism.

8.2. What elements should be improved in the CCIT definition?

SHOAA recommends the following improvements:

1. Restrict property damage to situations involving imminent risk to life

Property damage should qualify only when it:

- involves inherently dangerous methods (explosives), or
- creates a high probability of death or serious injury, or

- disables essential life-sustaining infrastructure.

2. Add explicit exclusions for:

a. Peaceful protest & assemblies

Protecting ICCPR rights and preventing misuse similar to Article 87 bis in Algeria.

b. Humanitarian assistance

To safeguard neutrality and access.

c. Human-rights advocacy & cooperation with UN mechanisms

Preventing criminalisation of HRDs, as widely documented in Algeria.

d. Activities governed by IHL, conditioned on IHL compliance

Ensuring that legitimate military operations are not mischaracterised, but also preventing impunity.

e. Struggles for self-determination compliant with IHL

Reflecting long-standing UN doctrine while maintaining prohibitions on attacks against civilians.

3. Add an explicit requirement of "serious violence"

To prevent politicised or ideological criminalisation of dissent.

4. Strengthen the "purpose" element

Clarifying that terrorism requires:

- **intimidation of a population**, or
- **violent coercion of a government or international organisation**, not ideological/ political motives, which are too easily manipulated.

8.3. How should the impasse over exceptions (armed forces and State military activities) be bridged?

The core dispute involves:

- Western States seeking broad exclusion of “military forces of a State”
- Developing States insisting on limits to prevent impunity
- Divisions over self-determination movements
- Disagreement about the treatment of non-State armed groups in conflict

SHOAA recommends a three-part compromise rooted in IHL, accountability, and clarity.

1. Insert a conditional exclusion for State armed forces during armed conflict

Proposed compromise text:

> “Activities of armed forces during an armed conflict, as governed by international humanitarian law and compliant with that law, do not fall within the scope of this Convention.”

Why this works:

- Satisfies States wanting an exclusion
- Satisfies States demanding IHL-compliance
- Prevents impunity for war crimes
- Aligns with Article 19 of the Terrorism Bombings Convention
- Clarifies that acts violating IHL remain prosecutable

2. Create a parallel exclusion for non-State armed groups, but only for acts compliant with IHL

This equalises obligations and prevents one-sided interpretations.

> “This exclusion applies to all parties to an armed conflict in accordance with international humanitarian law.”

This mirrors the position of the ICRC and Special Rapporteurs.

3. Clarify that State violence violating IHL or human-rights law can be prosecuted , but not as ‘terrorism’

This avoids the politically explosive category of “State terrorism” while maintaining accountability.

> “Nothing in this Convention shall preclude the applicability of international criminal law or the law of State responsibility to acts committed by States or their agents that violate international humanitarian law or international human-rights law.”

8.4. Why this approach is necessary: lessons from Algeria

Algeria’s experience demonstrates the consequences of leaving these issues unresolved:

- the government uses counter-terrorism laws (Article 87 bis) to criminalise peaceful dissent;
- security forces enjoy de facto impunity;
- authorities justify repression as “counter-terrorism operations”;
- non-State actors are treated as “terrorists” regardless of IHL context.

A clearer international framework would reduce these abuses and strengthen rights protections.

8.5. SHOAA’s overall recommendation

> **The CCIT must be revised to include a violence-based definition, strong human-rights safeguards, IHL-conditioned exclusions for armed forces, and explicit protections for peaceful protest, humanitarian action, and human-rights advocacy.**

Such revisions would modernise the draft, align it with contemporary standards, close the gap between IHL and counter-terrorism law, and finally allow the Convention to be completed after more than two decades.

9 . DEFINING "TERRORIST ORGANISATION" FOR INTERNATIONAL AND NATIONAL LISTING SYSTEMS

9.1. Should international law define "terrorist organisation"?

SHOAA's position: Yes, an international definition is essential.

Currently, States adopt radically different criteria, resulting in:

- inconsistency,
- politicised designations,
- arbitrary sanctions,
- criminalisation of civil society,
- misuse against opposition groups,
- cross-border spillovers,
- human-rights violations.

The absence of an international standard allows governments to label:

- NGOs,
- political movements,
- unions,
- religious associations,
- diaspora groups,
- human-rights networks,

as "terrorist organisations" based on ideology, criticism, or non-violent advocacy.

Algeria provides a clear warning

Under **Penal Code Articles 87 bis 3 and 87 bis 13**, organisations may be designated as "terrorist" or "extremist" if authorities claim they:

- “undermine national unity,”
- “destabilise State institutions,”
- “threaten public order,”
- “receive foreign support,”
- “spread extremist ideas,”
- or operate without State authorisation.

This has led to the dissolution or designation of:

- civic movements,
- opposition networks,
- media collectives,
- human-rights organisations.

Such misuse shows why **international definition and safeguards are indispensable**.

9.2. What additional elements are necessary to define a “terrorist organisation”?

A human-rights-compliant definition must contain **four components** beyond the definition of terrorism itself:

A. Organisational Structure

The group must have:

- **a degree of collective organisation**,
- **some decision-making structure**,
- **an identifiable membership or leadership**,
- **a continuity of existence beyond a single event**.

This distinguishes:

- organisations from spontaneous groups,
- structured collectives from peaceful assemblies,
- organised networks from individuals committing isolated acts.

Why this matters

Algeria frequently treats informal networks, protest movements, or online communities as "organisations," enabling terrorism charges.

An international standard must prevent this.

B. A demonstrable link between the organisation and acts of terrorism

The organisation must:

1. **commit**,
2. **attempt**,
3. **plan**,
4. **direct**,
5. **instigate**, or
6. **systematically support**

acts that clearly meet the **international definition of terrorism** (serious violence + purpose of intimidation or coercion).

Critically:

- **ideology, rhetoric, dissent, or activism cannot constitute terrorism.**
- **peaceful advocacy must not be used as evidence of terrorist purpose.**

Why this matters

In Algeria, groups are listed not because they engage in violence, but because they:

- criticise the government,
- cooperate with international organisations,
- participate in political opposition,
- advocate for democratic reform.

International law must prevent such abuse.

C. Evidence of organisational intent to use or support serious violence

The organisation must have the **specific intent** to:

- intimidate a population, or
- coerce a government/international organisation
  through serious violent acts.

This intent cannot be inferred from:

- political views,
- ideology,
- activism,
- foreign funding,
- civil-society engagement,
- peaceful mobilisation.

Algeria example:

Authorities claim that NGOs and political groups have “intent” to destabilise the State simply by criticising policies or collaborating with UN bodies.

This underscores the need for a **violence-based intent test**.

D. Procedural and evidentiary safeguards for designation

An international definition must be paired with strict safeguards:

1. Clear evidentiary standard

- *credible, reliable, and legally admissible evidence*
- no reliance on intelligence that cannot be tested
- no guilt by association

2. Due process

- right to be notified of listing
- right to contest listing
- right to legal representation
- judicial or quasi-judicial oversight
- periodic review and sunset clauses

3. Proportional sanctions

- ensure measures do not criminalise humanitarian work, human-rights advocacy, or protected speech.

4. Human-rights compliance

- designations must comply with ICCPR, ICESCR, ICERD, CEDAW, CRC, and IHL.

9.3. What should *not* be included in the definition of "terrorist organisation"?

To avoid replicating the abuses observed in Algeria and other restrictive contexts, international law must **exclude** designations based on:

- political ideology,

- criticism of the government,
- peaceful protest,
- human-rights advocacy,
- religious beliefs,
- digital expression,
- association with international bodies,
- “national unity” or “public order” rhetoric.

These concepts are regularly weaponised to dissolve or criminalise civil society.

9.4. SHOAA’s Recommended International Definition of “Terrorist Organisation”

Below is the model definition SHOAA recommends:

> **“A terrorist organisation is a structured group of two or more persons that commits, attempts to commit, plans, directs, or intentionally supports the commission of terrorist acts, where such acts meet the internationally recognised definition of terrorism. The organisation must have the specific purpose of intimidating a population or compelling a government or international organisation through serious violent conduct.”**

And explicitly exclude:

> **“Peaceful civil-society groups, political movements, trade unions, professional associations, diaspora networks, and organisations engaged in protected activities under international human-rights law.”**

9.5. Why an international definition is essential, lessons from Algeria

Algeria’s use of Articles **87 bis 3** and **87 bis 13** allows:

- designation without judicial review,
- listing based on ideology rather than violence,

- criminalisation of contact with international NGOs,
- sanctions against peaceful civil-society groups,
- repression of political opponents.

This demonstrates clearly:

- Designations without international safeguards enable systemic abuse.
- A vague definition allows States to silence civil society.
- Codifying a precise international definition would prevent misuse.

9.6. Summary of SHOAA's recommendations

1. **Yes, international law must define "terrorist organisation."**
2. Include requirements of:
    - structural organisation,
    - involvement in violent acts,
    - specific violent coercive purpose,
    - demonstrable operational link to terrorism.
3. Exclude peaceful civil society, unions, NGOs, and political groups.
4. Require strict procedural safeguards and human-rights compliance.
5. Prevent misuse as in Algeria, where terrorism designations are applied to silence civic space.

10 . SHOULD INTERNATIONAL LAW DEFINE "VIOLENT EXTREMISM" OR "EXTREMISM"?

SHOAA's Position: No, "violent extremism" and "extremism" are *incapable* of being defined in a manner consistent with international human-rights law.

SHOAA submits that neither **"violent extremism"** nor **"extremism"** can be formulated as legally precise, foreseeable, and non-arbitrary concepts that satisfy the **principle of legality (nullum crimen sine lege)** under international human-rights law.

These terms are **inherently vague**, **open-ended**, and **dependent on ideology**, making them unsuitable as bases for criminalisation or as triggers for sanctions, surveillance, or restrictions on rights.

This position is supported by:

- UN Special Rapporteur on Counter-Terrorism (A/HRC/31/65, A/HRC/40/52),
- UN Special Rapporteur on Freedom of Expression,
- OHCHR guidance on human-rights-compliant counter-terrorism,
- OSCE/ODIHR & Venice Commission legal opinions,
- UN Human Rights Committee (GC No. 34),
- IACL/ICJ and other international legal bodies.

10.1. Why "violent extremism" cannot be legally defined

The term *violent extremism* attempts to describe:

- **violent acts**
  combined with
- **extremist ideology or beliefs**

as an aggravating element.

But the violence itself is already criminalised.

There is **no legal necessity** for an ideology label.

The *violence* can be prosecuted under:

- terrorism offences (if meeting threshold),
- murder/attempted murder,
- armed attack,

- arson,
- other serious crimes.

Adding the qualifier “extremism” introduces an **ideological test**, which:

- criminalises thought, belief, or opinion;
- creates a risk of punishing motives rather than conduct;
- violates ICCPR Articles 18 and 19;
- conflicts with Special Rapporteur guidance requiring terrorism to be “violence-based, not ideology-based.”

Because violent extremism **duplicates existing offences** while adding **unconstitutional ideological elements**, it cannot meet the principle of legality.

10.2. Why “extremism” is impossible to define legally

The term *extremism* refers to:

- non-violent ideas,
- beliefs or narratives seen as “radical,”
- political, religious, or social doctrines at odds with the State.

This is fundamentally incompatible with international human-rights law.

Any attempt to define extremism will inevitably be subjective because:

1. **What is “extreme” varies across cultures, political systems, and governments.**
2. It depends on ideological interpretation, not objective conduct.
3. States inevitably use extremism laws to target dissent and opposition.
4. It regulates **thought**, not **action** — prohibited under international law.
5. It allows criminalisation of protected expression, assembly, and association.

International human-rights mechanisms have repeatedly warned:

- Extremism laws **lack foreseeable boundaries**.
- They lead to **arbitrary arrests**, **prior restraint**, **censorship**, **surveillance**, and **abuse of political opponents**.
- They violate the **principles of necessity and proportionality**.
- They enable "guilt by association."

Therefore, extremism cannot be an offence under international law.

10.3.Violent extremism frameworks also undermine human-rights law

Policies and laws on "preventing and countering violent extremism (P/CVE)" have been criticised because:

- They rely on **pre-crime**, targeting individuals *before* any wrongdoing.
- They monitor and censor expression, especially online.
- They profile youth, minorities, migrants, and activists.
- They compel teachers, social workers, and doctors to report "suspicious thinking."
- They conflate dissent with extremism.
- They disproportionately target human-rights defenders.

UN Special Rapporteurs have repeatedly concluded that P/CVE laws:

- violate freedom of expression,
- suppress civic space,
- and disproportionately affect NGOs and activists.

10.4. SHOAA's Conclusion: Extremism cannot be part of any legal definition

A. Extremism cannot be defined consistently with the principle of legality

- It is inherently subjective.
- It criminalises ideology, not conduct.
- It is incompatible with Articles 18, 19, 21, and 22 of the ICCPR.
- It enables political repression.

B. Violent extremism is unnecessary and duplicates existing offences

- Violence can be prosecuted without ideological labels.
- Terrorism should always be defined through **violence**, not belief.

C. Extremism is the single largest driver of abuses in counter-terrorism systems

- It enables mass repression, as seen in Algeria under Article 87 bis.
- It criminalises dissent, journalism, human-rights work, and political opposition.
- It fosters discrimination and arbitrary enforcement.

10.5. SHOAA's Recommended International Approach

> **International law should NOT define "extremism" or "violent extremism."**
> These concepts are fundamentally incompatible with international human-rights law and the principle of legality.
>
> Counter-terrorism law must remain strictly focused on:
> **(1) serious violence**, and **(2) the specific intent to intimidate a population or coerce a government.**

All other ideological, political, or religious considerations must be excluded.

Conclusion and Summary of SHOAA's Submission

SHOAA submits that defining terrorism in a manner consistent with international human-rights law requires a **narrow, violence-based, and purpose-specific framework**, free from ideological, political, or subjective elements. The Algerian experience, particularly the evolution of **Article 87 bis**, the **2024 Penal Code amendments**, the **2023 Cybercrime Law**, and the treatment of civil society, demonstrates the severe human-rights risks posed by vague or overbroad formulations.

To ensure legal certainty and prevent misuse, the definition of terrorism must:

1. Be strictly grounded in serious violent conduct.

Terrorism must be limited to acts intentionally causing or creating an imminent risk of **death, serious bodily injury, or hostage-taking**, or attacks on infrastructure likely to produce such harm. Property damage, public disorder, digital activities, or political dissent cannot qualify absent a demonstrable lethal risk.

2. Require a clear and internationally uniform purpose element.

Only two purposes are legitimate and consistent with global practice:

- **intimidating a population**, and
- **coercing a government or international organisation through serious violence**.
  Broader purposes such as “destabilising State institutions,” “undermining national unity,” or “challenging constitutional values” are inherently vague and therefore incompatible with international human-rights law.

3. Exclude ideology, belief, politics, religion, and opinion from terrorism definitions.

Motivations, political, ideological, religious, philosophical, or racial, must not be included. These elements criminalise ideas rather than conduct, contradict ICCPR Articles 18 and 19, and systematically enable the repression of dissent, as observed in Algeria.

4. Include explicit carve-outs to protect civic space.

The definition must expressly exclude:

- peaceful protest and assemblies;
- humanitarian assistance;
- human-rights advocacy and engagement with international mechanisms;
- lawful activities of civil society;
- conduct governed by international humanitarian law (in armed conflict);
- struggles for self-determination compliant with IHL.
  Such safeguards are essential to prevent the counter-terrorism framework from being weaponised against civil society.

5. Address the issue of State violence without creating a criminal category of "State terrorism."

State conduct violating human-rights law or IHL must be addressed through **international criminal law and State responsibility**, not through terrorism definitions. Exclusions for armed forces must be strictly conditioned on compliance with IHL and human-rights norms to avoid impunity.

6. Adopt a precise, rights-compliant definition of "terrorist organisation."

International law should define a "terrorist organisation" narrowly, requiring:

- a structured group;
- demonstrable involvement in terrorist acts as defined above;
- a violent coercive purpose;
- rigorous due-process and evidentiary safeguards.
  This prevents States from designating NGOs, unions, political movements, or diaspora networks as "terrorist entities," a practice seen in Algeria that dangerously erodes fundamental freedoms.

7. Reject the concepts of "extremism" and "violent extremism" as legal categories.

These terms are impossibly vague, ideology-based, and incompatible with the principle of legality. They are systematically misused to silence dissent. International law must not define or criminalise them.

8. Strengthen and modernise the draft Comprehensive Convention on International Terrorism.

The draft CCIT remains incomplete. It must incorporate:

- explicit human-rights safeguards;
- IHL-conditioned exclusions;
- a violence-based definition;
- protections for peaceful civic activity;
- clarity on the distinction between terrorism, organised crime, and State responsibility.

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Final Summary

SHOAA urges the Special Rapporteur to promote an international definition of terrorism that:

- is narrow, precise, and anchored in **serious violence**;
- focuses solely on **intimidation of populations** or **violent coercion of governments**;
- excludes ideology, thought, dissent, and peaceful civic action;
- prevents the misuse of counter-terrorism laws to restrict civic space;
- provides robust safeguards protecting human-rights defenders, journalists, lawyers, associations, and civil society;
- maintains the integrity of international humanitarian law and international criminal law;
- harmonises listing mechanisms for “terrorist organisations” with due process and human-rights obligations;
- rejects vague and abusive concepts such as “extremism” and “violent extremism.”

The situation in Algeria illustrates the risks and consequences of overbroad counter-terrorism laws: peaceful expression, association, and human-rights work are routinely treated as terrorism, undermining the rule of law and shrinking civic space. An international definition aligned with human-rights norms is urgently needed to prevent such abuses, protect fundamental freedoms, and preserve the legitimacy of global counter-terrorism efforts.