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**STATEMENT
ON BEHALF OF THE AFRICAN GROUP
BY**

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PERMANENT REPRESENTATIVE
OF THE PERMANENT MISSION OF
SOUTH AFRICA TO THE UNITED NATIONS**

**IN THE
SIXTH COMMITTEE OF THE
GENERAL ASSEMBLY UNDER AGENDA ITEM
"STATUS OF THE PROTOCOLS ADDITIONAL TO THE
GENEVA CONVENTIONS OF 1949 AND RELATING TO THE
PROTECTION OF VICTIMS OF ARMED CONFLICTS"**

**UNITED NATIONS
NEW YORK**

20 OCTOBER 2014

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Mr Chairman

My delegation has the honour to deliver this statement speaking on behalf of the African Group. At the outset, the African Group would like to thank the Secretary-General for his report. The African Group strongly supports the full implementation of the International Humanitarian Law. International law distinguishes between the right to resort to war (*ius ad bellum*) and the law governing the waging of war and the treatment of combatants and civilians in time of war (*ius in bello*), also referred to as the "law of war", which are applicable irrespective of the legality of the war. In this regard, no distinction is made regarding the obligations of the aggressor or victim. The source of this branch of international law is mainly found in multilateral treaties. A series of treaties were adopted in The Hague between 1899 and 1907, dealing primarily with the rules on how to conduct hostilities in a lawful manner and restricting the use of certain weapons (the so-called "Hague law") and those governing the treatment of non-combatants (the four Geneva Conventions of 1949 and their Additional Protocols (the so-called "Geneva Law"). However, the International Court of Justice found that the two systems 'have become so closely inter-related that they are considered to have gradually formed one single complex system, known today as international humanitarian law' (*Legality of the threat or Use of Nuclear Weapons Case*, (1996). While the Conventions have been widely ratified, even States that did not become party to them are bound by international humanitarian law ("IHL") on the basis that it is being accepted as customary international law. Also, the decision of the International Criminal Tribunal for the Former Yugoslavia in the *Tadic* case (1995) makes it clear that the legal distinction between international and internal armed conflict is becoming smaller and that the same customary law applies to both situations.

Mr Chairman

The African Group is concerned that notwithstanding the existence of international humanitarian law as contained in the Geneva Conventions, the Additional Protocols and customary international law, the rules continue to be flouted. And the question for many remains to see how IHL could still be used as an adequate legal framework for the protection of victims of armed conflict, particularly to preserve human life and dignity, within the changing environment which sees new forms of armed violence. There are many examples of violation of IHL, with civilians increasingly becoming the victims of war, particularly as the nature of war is changing and it becomes more difficult to draw a distinction between combatant and non-combatant. It therefore remains a challenge to the proponents of IHL to ensure global compliance to IHL and to protect the innocent. In essence, as the means and methods of armed conflict evolve, so must IHL. The African Group's view is that the way forward lies in states adopting, ratifying and codifying in national laws the various conventions and the 1977 protocols on

the law of armed conflict, and assuring its implementation on the ground. Just as national governments have the primary responsibility to assure the safety and protection of their civilians, in times of peace or violent conflict, so national courts have a clear obligation to bring to court those accused of grave breaches of IHL and national laws based upon it. The law in itself does not protect; only the effective implementation and respect for the law protects. We are also of the view that the United Nations should play a significant role in respect of the implementation of IHL. During times of peace it is important for the UN to assist Member States, at their requests, with dissemination and effective domestication of IHL instruments. Many IHL instruments are very technical in nature and as such, some developing countries do not always have the resources nor the capacity to achieve the effective implementation of the IHL. The United Nations should also play a vital role in monitoring adherence to and persecution of IHL violations during times of armed conflict. It is important to note that a proactive approach of dissemination and education should be the primary focus; not a reactive approach where action is taken only after grave breaches of IHL have taken place.

Mr Chairman

The armed conflicts destabilizes Africa in a big way, politically, economically, and socially and give rise to loss of life, displacements, poverty, child malnutrition, and the loss of livestock. As we speak, Africa is home to half of the world's displaced persons because of the armed conflicts. The African Group commends the International Committee of the Red Cross on its role in the promotion of International Humanitarian Law and monitoring compliance with it. We also commend International Committee of the Red Cross for its role in protecting victims during armed conflicts; for its assistance to national authorities on compliance measures for international humanitarian law; and for updated database of the study on customary International Humanitarian Law available worldwide. The African Group also appreciates the fact that four regional consultation conferences were held to establish guidelines and the regional conference for Africa was in October 2012. The ICRC also hosted in Africa a Health Care in Danger Regional Conference during April 2014 focusing on the physical safety of health care workers and facilities during times of armed conflict and other emergencies and an IHL seminar for SADC States from 2-9 September 2014. We also welcome the ICRC's initiative to strengthen compliance with International Humanitarian Law in practice, with two priority areas: the protection of persons deprived of their liberty in relation to non-international armed conflicts, and international mechanisms for monitoring compliance with IHL. Some African States also participated in a number of preparatory meetings as well as three meetings of States in Geneva on mechanisms for the strengthening of compliance with International Humanitarian Law. Thus, the African Group looks forward to the

fourth meeting of States in 2015 after which a report will be presented to the 32nd International Conference of the Red Cross and Red Crescent in 2015.

I thank you for your attention.