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**ICRC**

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“Measures to eliminate international terrorism” [item 109]**

Statement by the  
International Committee of the Red Cross (ICRC)

October 2017

Mr / Madam Chair,

Terrorism negates the fundamental principle of humanity and is contrary to the core objectives of international law, including international humanitarian law (IHL). The International Committee of the Red Cross (ICRC) condemns all acts of terrorism, whether committed within or outside armed conflict and irrespective of their perpetrators, and is alarmed by the harmful effects of these acts on countries, communities and individuals.

The rise of terrorism is a growing concern domestically and internationally. This situation has led States and international organizations such as the United Nations to react by developing their counterterrorism capacities.

The ICRC recognizes the legitimacy of States to take the measures necessary to ensure their security and eliminate terrorism. Nevertheless, when such measures are taken, the safeguards protecting human life and dignity must be upheld.

In our view, the international community must be clear and firm about the need for counterterrorism activities to be conducted with full respect for the protection afforded to all individuals by international law, in particular IHL and international human rights law. This is also true for persons arrested and detained in connection with terrorism, including those designated as "foreign fighters". The detention of these individuals in all its aspects must always comply with the relevant international laws and standards, in particular IHL rules when applicable. Independent and impartial monitoring mechanisms, such as the ICRC, should be granted access to these individuals, so that they can assist the detaining authorities in ensuring that detainees are treated humanely and in conformity with applicable international law and standards.

Upholding the protection enshrined in the applicable legal rules is also in the interest of the international community, as there is a growing recognition today that the violations of those rules may exacerbate the very phenomenon that counterterrorism purports to fight.

Mr / Madam Chair,

The efforts undertaken to combat terrorism have also reinvigorated States' discussion of the UN draft comprehensive convention on international terrorism. Inasmuch as this draft may include armed conflicts in its scope of application, the ICRC deems it essential to include a provision regulating its relationship with IHL. Such a provision would not only be the only way to minimize overlaps and contradictions between the draft comprehensive convention and IHL, but would also be critical to maintaining the rationale for, and the integrity and relevance of, IHL.

In particular, in armed conflicts, the draft comprehensive convention should not criminalize actions that are not prohibited under IHL, such as attacking military objectives or persons not entitled to protection against direct attacks. For the ICRC, any agreement on the terms

of the draft comprehensive convention on international terrorism must be consistent with IHL's basic principles and definitions.

Mr / Madam Chair,

On various occasions since 2011, the ICRC has underscored the potential adverse effects on humanitarian action of counterterrorism measures taken by States, both internationally and domestically. Such measures, in particular criminal laws, should be drafted in such a way as to ensure that they will not impede or make humanitarian action more difficult. Such action includes humanitarian engagement with non-State armed groups, even when they are designated as terrorists.

In particular, criminal laws dealing with terrorism should exclude from their scope of application activities that are exclusively humanitarian and impartial. In our view, such exclusion – also known as “humanitarian exemptions” – would be in line with the letter and spirit of IHL and therefore compatible with States' obligations under IHL. Failure to exclude these activities from criminal laws dealing with terrorism would imply a rejection of the notion of neutral, independent and impartial humanitarian action, an approach that the ICRC strives to promote in its operational work in the field. It could also jeopardize the mission of impartial humanitarian organizations to protect and assist people affected by armed conflict, particularly in areas controlled by non-State armed groups.

Thank you.

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