



ICRC

Measures to eliminate international terrorism
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Statement by the International Committee of the Red Cross (ICRC)
October 2018

Mr / Madam Chair,

Terrorism negates the fundamental principle of humanity. It is contrary to many underlying principles and core objectives of international humanitarian law (IHL). The ICRC condemns acts of terrorism, and is deeply distressed by the devastating impact of these acts on communities and individuals.

States and international organizations have reacted by developing a comprehensive and multi-layered counter-terrorism framework.

The ICRC does not challenge the legitimacy of States to take the measures necessary to ensure their security and eliminate terrorism. Nevertheless, Member States must be clear and firm about the need for counterterrorism activities to be conducted with full respect for the protections afforded to all individuals by international law, in particular IHL and human rights law.

Importantly, these bodies of international law must be respected when individuals are arrested and detained in connection with terrorism. Their designation as so-called “foreign terrorist fighters,” or the nature of the acts they may have committed, may in no way be invoked as a justification for the non-observance of the legal protections they are entitled to under international law, notably in IHL, when applicable. Independent and neutral monitoring mechanisms, such as the ICRC, should be granted access to these individuals, so that they can assist detaining authorities in ensuring that detainees are treated humanely and in conformity with applicable international law and standards.

In relation to the counterterrorism measures taken against “foreign fighters” and their families, the ICRC is particularly concerned by the situation of children. Children affected by such measures, even those accused of crimes, are first and foremost victims. They must be detained only as a last resort. Children must be treated with due consideration for their age and individual vulnerabilities, and the ICRC encourages States to find solutions that are in the best interest of these children, notably by ensuring that they are not separated from their parents and siblings.

Mr / Madam Chair,

On various occasions since 2011, the ICRC has underscored the potential adverse effects on humanitarian action of certain counterterrorism measures taken by States, both internationally and domestically.

Humanitarian activities undertaken by impartial humanitarian organizations, including those in favour of wounded and sick fighters, must never be considered as a form of unlawful support to non-State actors or individuals designated as terrorists or criminalized under international, regional or domestic laws. The ICRC recalls that such activities are an integral part of the humanitarian mandate assigned to impartial humanitarian organizations by the State parties to the Geneva Conventions of 1949 and their 1977 Additional Protocols.

In the ICRC's view, sanctions regimes and criminal laws dealing with terrorism should exclude from their scope of application activities that are exclusively humanitarian and impartial. Such exclusions – also known as “humanitarian exemptions” – would be in line with the letter and spirit of IHL and therefore compatible with States' obligations under that body of law. Failure to exclude these activities from criminal laws dealing with terrorism would lead to the negation of the notion of neutral, independent and impartial humanitarian action and jeopardize the mission of impartial humanitarian organizations to protect and assist people affected by armed conflict, particularly in areas where non-State armed groups designated as terrorist are active. These are areas in which the needs of the population are often more acute.

In this regard, the ICRC welcomes the June 2018 adoption of the UN GA resolution on the UN Global Counter-Terrorism Strategy, notably paragraph 79 urging States “to ensure, in accordance with their obligations under international law and national regulations, and whenever IHL is applicable, that counter-terrorism legislation and measures do not impede humanitarian and medical activities or engagement with all relevant actors as foreseen by IHL”. The time has now come to take concrete measures to this effect. The ICRC stands ready to engage Member States, including members of the Security Council, as well as other relevant UN organs, such as OCT and CTED, in a candid and open dialogue on these fundamental issues.

Mr / Madam Chair,

Thank you.