Promoting GCTF Good Practices on the Role of the Judiciary in Adjudicating Terrorism Offenses within a Rule of Law Framework

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BACKGROUND

The increasing complexity and cross-border nature of national security and terrorism-related criminal cases present myriad difficulties to national criminal justice systems, including for the judiciary. In addition to presenting intricate legal issues often requiring specialized expertise such as balancing the national security concerns of a government and the fair trial rights of the accused, numerous practical obstacles and procedural hurdles also erode the judiciary’s ability to resolve cases in an effective, efficient, and just manner. Overburdened courts, protracted legal proceedings, unreliable witness testimony resulting from inadequate protection mechanisms, and insufficient and poor forensic evidence are but a few of the obstacles that the judiciaries and their governments endeavor to overcome.

Recognizing the importance of a strong and independent judiciary that fairly and expeditiously adjudicates terrorism and other national security offenses, the 30 members of the Global Counterterrorism Forum (GCTF) adopted in September of 2014 the Hague Memorandum on Good Practices for the Judiciary in Adjudicating Terrorism Offenses.1 The Hague Memorandum enumerates nine (9) good practices related to, among others, strategies for case and trial management, measures to protect victims and witnesses in the trial process, safeguarding the right of the accused to a fair trial, and improving courthouse and judicial security protocols. By expanding on the principles listed in the Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector, the Hague Memorandum aims to provide practical guidance for judiciaries handling terrorism cases.

ABOUT THIS PROJECT

Under the auspices of the GCTF, the Global Center on Cooperative Security (Global Center) will design and implement three judicial workshops to further advance the implementation of the Hague Memorandum’s good practices. The workshops, which will focus on states in East Africa and Southeast Asia and include a cross-regional component, will assess the challenges associated with these cases, reflect on the good practices within their judicial environment, and consider a broad range of legal tools and strategies to achieve their implementation.

The project will be conducted in close cooperation with multilateral partners including the International Institute for Justice and the Rule of Law (IIJ), the United Nations, and relevant regional and subregional bodies.

Each of the workshops will seek to:

- Disseminate good practices giving prominence to important principles and good practices, including those identified by the GCTF;
- Provide a regionally-focused discussion on issues across the breadth of the Hague Memorandum;
- Compile additional good practices and lessons learned through meeting summaries and other guidance documents for the use of local, regional, and global stakeholders; and,
- Build a network of judges to foster greater and more efficient cross-border cooperation.

ABOUT THE GLOBAL CENTER ON COOPERATIVE SECURITY

The Global Center works with governments, international organizations, and civil society to develop and implement comprehensive and sustainable responses to complex international security challenges through collaborative policy research, context-sensitive programming, and capacity development. In collaboration with a global network of expert practitioners and partner organizations, the Global Center fosters stronger multilateral partnerships and convenes key stakeholders to support integrated and inclusive security policies across national, regional, and global levels.

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