

# **[OPINION] The humanitarian imperative and the threat of the Anti-Terror Bill**

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**'An important issue, though less discussed in online debates, is the anti-terror bill's implication on people's access to humanitarian support'**

Two weeks ago, House Bill No. 6875, or the proposed "Anti-Terrorism Act of 2020," hurdled its second reading at the plenary, after it was certified as urgent by President Rodrigo Duterte. The House of Representatives subsequently approved the bill on third and final reading, and became an enrolled bill with its Senate counterpart, [for the President's signature](#).

Dissenters took to social media to protest the bill. Reading on the Anti-Terror Bill's contentious provisions, critics allege that the bill appears on its face to threaten freedoms and rights enjoyed by citizens under a democracy.

An important issue, though less discussed in online debates, is the bill's implication on people's access to humanitarian support. Section 13 of HB 6875 provides a humanitarian exemption from the criminal acts stated in Section 12 on providing material support to terrorists. Under Section 13, organizations such as the International Committee of the Red Cross (ICRC) and the Philippine Red Cross (PRC) are allowed to conduct their activities without the burden of being tagged as supporters of terrorist organizations. The provision also grants exemption to other organizations on the condition that they are state-recognized and impartial in providing aid, in accordance with the IHL. It is this seeming "exception to the exemption" that is a cause for concern for both humanitarian actors working in conflict settings, and the communities that they serve.

In situations of displacement, loss of livelihood, loss of shelter, disruption of education, restricted freedom of movement, and other issues, all create risks to the safety, dignity, and well-being of the affected population. Aid from government or non-government humanitarian actors thus take on a lifesaving character. However, in situations when the government is not able to provide support due to various reasons, humanitarian aid workers step in to provide the necessary support and protection that is needed by affected communities. This is in view of the foremost principle of humanitarian practice: the humanitarian imperative.

The International Red Cross and Red Crescent Movement defines the humanitarian imperative as "the right to receive, and offer, humanitarian assistance." This principle emanates from our concept of a shared humanity. It has two intertwined concepts, either of which cannot stand without the other: the right to offer humanitarian support, and the right of those in need to receive it. Affected communities must receive aid, and those who aim to provide aid must not be prevented by the State or its agents to deliver services.

This principle is likewise enshrined in Principle 18 of the UN Guiding Principles of Internal Displacement, which provides that all internally displaced persons (IDPs) have the right to adequate standard of living, and competent authorities shall provide IDPs with safe access to food and potable

water, adequate shelter, appropriate clothing, medical services and sanitation, among others.

This is where Section 13 of the Anti-Terror Bill raises concerns. Although the section provides that humanitarian activities are not to be construed as provision of support to terrorists, the section also highlights that humanitarian groups who can provide assistance that enjoys exemption are only those organizations that are “state-recognized.” This provision gives broad powers to the implementers of the law to determine which groups can provide aid without incurring penal liability, and which ones will be under potential pain of penalty under Section 12 of the bill, in addition to being branded or associated with terrorists.

This provision goes against the humanitarian imperative, and the principles of humanity, neutrality, impartiality, independence, and Do No Harm. With this expansion of State powers to determine which groups and persons can be protected by law as they conduct their humanitarian work, aid organizations could lose their impartiality and independence in providing assistance. With a restrictive interpretation of this provision, compliance with requirements for state recognition could be as mundane as filing paperwork to actually choosing which side to provide aid to.

At present, most non-government humanitarian providers are registered or recognized in different ways and for very specific purposes – for example, to obtain corporate personality; to qualify as implementing partners of government agencies in projects involving public funds; to qualify as entities that may receive tax-deductible donations; and so on. These are not requirements for a person or group of persons be able to provide succor to the needy, as it should be rightly so.

Supporters of the bill argue that the qualifier “state-recognized” in Section 13 is there to ensure that no sympathizer organizations could provide support to terrorist groups. This assumption fails to consider that the humanitarian imperative is a duty that actors, including the State and other parties to conflict, must observe. Should there be individuals or groups that will use the humanitarian platform to support or propagate terrorism, they could well come under the general prohibition under Sec. 12, the other provisions in the bill, or other laws such as the IHL.

Supporters of the measure also assure the public that there is no need to be afraid of the Anti-Terror Bill if they are not, or do not coddle, terrorists. Aside from this logic being fallacious, this view poses harm to those who conduct legitimate humanitarian work in conflict-afflicted communities. The issue remains that the elements to determine who are terrorists appear to be vague and overbroad.

Section 13 also creates a chilling effect that could deter organizations from delivering services. Aid workers may be implicated should they provide life-saving intervention to communities where suspected terrorists reside. Should they decide to be recognized under this law, humanitarian actors may face limitations from the State that may interfere with their work or humanitarian principles. The State may also redirect the supplies and services of these organizations away from communities that need them the most. These are all contravention to the humanitarian principles, particularly the principles of humanity and independence.

A bill that protects communities from terrorism and its effects is a commendable measure. In an uncertain time when those who seek to sow terror are emboldened to conduct attacks against the public, policies must be instituted to penalize those who aim to propagate fear and chaos. However, said measure must not encroach on human rights, which includes the right to access humanitarian support and the right to offer it.

With the current version of the Anti-Terror Bill, the humanitarian imperative is relegated as a secondary concern when in fact it should be at the heart of any measure that directly addresses violence and its effects. State recognition of non-state aid services, though relevant, must not

infringe on the independence of aid providers. Humanitarian work must continue to be impartial and politically neutral in its services and to its clients, and should remain as such.

There is no need to qualify which humanitarian groups could enjoy protection and which could not. Humanitarian workers must be protected by the law, not harmed by it. A measure that threatens the practice of humanitarian work in the name of counter-terrorism is a terrorizing policy itself. This policy must be heavily scrutinized with that in mind.

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