

# COMMENT

## ON THE PILOT EMPIRICAL SURVEY STUDY ON THE IMPACT OF COUNTERTERRORISM MEASURES ON HUMANITARIAN ACTION

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### **I. INTRODUCTION**

Counterterrorism laws and policies have been and will almost certainly continue to be part of the political landscape facing humanitarian actors. As terrorist-designated non-state actors increasingly control access to territory, humanitarian actors will continue to face dilemmas presented by adhering to counterterrorism legal requirements while delivering principled humanitarian assistance.

Along with past literature, the Pilot Empirical Survey Study on the Impact of Counterterrorism Measures on Humanitarian Action (the Study) indicates that some humanitarian actors both perceive and experience an adverse impact arising from counterterrorism laws and policies on the provision of life-saving assistance. The results of the Study can help inform states, donors, policy-makers, humanitarian actors, and other parties of possible areas of tension or issues that might warrant legal or policy change (or both). Those results can also help shape research agendas. In this Comment, I provide my views on these issues, based not only on the Study but also on the other work of the Counterterrorism and Humanitarian Engagement (CHE) Project, which is now part of the Harvard Law School Program on International Law and Armed Conflict (HLS PILAC). The CHE Project at HLS PILAC has been conducting legal research, policy analysis, and engagement efforts with counterterrorism officials, government donors, and humanitarian actors for over five years. While the Study serves as the first effort to quantitatively assess the impact of counterterrorism regulations at a general level on humanitarian action, the broader efforts of the CHE Project suggest a number of areas for possible reflection, decision-making moments, and critical questions for consideration by donor governments and the humanitarian sector.

### **II. STATES AND DONORS**

This Comment is primarily addressed to large humanitarian organizations and agencies. However, states and donor governments may wish to reflect on the implications of the Study and the underlying themes discussed in this Comment for their own approach to dilemmas that may arise where counterterrorism

concerns and humanitarian action intersect. To date, this has been largely viewed and treated as a “problem” for the humanitarian sector. That is, the increasing confusion, administrative costs, and programmatic effects of counterterrorism laws and regulations have been framed as a burden that must be borne by the humanitarian community and as a risk that that community must absorb and determine how to address. Because the majority of counterterrorism regulations are, in practical terms, communicated to the humanitarian community in the form of donor contracts representing the exchange of funds from governments to the humanitarian sector, there may be a sense that such regulations have a “take it or leave it” quality. Indeed, many humanitarian actors have reported to the CHE Project that donor representatives have told them that clauses cannot be negotiated, or that they should not raise objections rooted purely in administrative costs (as opposed to reporting that counterterrorism regulations are actually resulting in, for example, the denial of life-saving foodstuffs to a specific population). Some donors have made extensive efforts to engage in dialogue with humanitarian (and other non-profit) actors, have drafted some guidance for the sector, or have sought to make themselves available for discussion of specific dilemmas arising from counterterrorism policies in relation to particular contexts. Yet that guidance is often tempered with statements that it is not necessarily legally enforceable or that it would not apply in relation to situations that involve criminal liability. Many donors also seem to have set an exacting standard for what they would consider as sufficient “impact” of counterterrorism measures on humanitarian action, often limiting that category to a direct causation of harm to beneficiaries from a specific counterterrorism restriction.

In this arena, donor governments often experience significant internal division, resulting in a lack of coherence. Donor representatives themselves often have a different understanding of the scope and intended application of counterterrorism laws than, for example, government counterterrorism officials or anti-terrorist financing experts. Indeed, achieving a “whole of government” approach to humanitarian assistance concerning territories where designated groups control territory or access to a civilian population has proven exceptionally challenging, and often involves some government agencies intentionally avoiding the kind of internal political discussion that might result in privileging security concerns (sometimes far) above humanitarian commitments.

Perhaps as a result of this internal confusion, and perhaps due to the perceived political sensitivities around these issues, governments have been able to largely set the terms of the dialogue on counterterrorism measures and humanitarian action. Some governments may have even given the impression that if humanitarian actors are not willing to accept the terms of counterterrorism regulations, it would be easy to replace those humanitarian actors with commercial contractors. Against that backdrop, it is important to recall that principled humanitarian assistance remains a vital aspect of the foreign policy of many states and that donor representatives are often just as eager to ensure that humanitarian action

is not compromised or diminished as a result of overbroad regulation. Donor governments may therefore need both to increasingly consider the extent to which they must share the risks associated with counterterrorism concerns with their humanitarian partners and to understand that the restrictions imposed by some donors might affect the aid supported by other donors.

For their part, donor government representatives may feel increasingly frustrated by the lack of concrete evidence of impact and precise guidance from the humanitarian sector in this arena. While humanitarian actors have increasingly sought dialogue and engagement on the broad contours of the impact of counterterrorism measures on humanitarian action, they have, in key respects, provided minimal “proof” of this impact and have relatively rarely articulated concrete and specific activities that are or might be compromised by counterterrorism restrictions. (This can be a circular problem, as humanitarian actors may fear specificity out of a concern that this could be seen as an admission that they are engaging in criminally prohibited behavior.) Also, in dialogue with governments, particularly at the multilateral level, humanitarian actors have largely not articulated a coherent set of requests for reform or specific examples of the kinds of exemptions (if any) that they might find constructive.<sup>1</sup>

To the extent that donor governments recognize that they, alongside humanitarian actors, can address the dilemmas that arise from the impact of counterterrorism policies on humanitarian action, those governments may wish to consider a number of approaches. First, donor governments may wish to explore creating coalitions of donors that can candidly discuss tensions between, on one side, state obligations and commitments to fight terrorism and, on the other, state approaches to supporting principled humanitarian assistance. Second, donor governments may be far better suited than the humanitarian sector to think through practical and principled approaches to due diligence; to bear the burden of explaining expectations for contract-clause compliance; to develop model safe harbors or exemptions to existing criminal and other laws; and to reconcile disparate approaches to the provision of humanitarian assistance, particularly in those areas where designated groups control territory or access to a civilian population. The Study demonstrates that many humanitarian actors are willing and able to discuss dilemmas associated with the impact of counterterrorism policies on their work with donor governments. It may be time for donors to reflect both on their own strategic and pragmatic response to this issue and on the fragmentation and incoherence that has often characterized donor engagement with their humanitarian partners in this arena.

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1. On humanitarian exemptions, *see generally* Katie King with Naz K. Modirzadeh and Dustin A. Lewis, *Understanding Humanitarian Exemptions: U.N. Security Council Sanctions and Principled Humanitarian Action*, Harvard Law School Program on International Law and Armed Conflict, Counterterrorism and Humanitarian Engagement Project (April 2016).

### III. HUMANITARIAN ORGANIZATIONS

The data from the Study raise an array of possible considerations for humanitarian actors. Humanitarian organizations may wish to consider whether they have established appropriate risk-assessment tools for work in regions where terrorist-designated individuals or groups may control territory. Humanitarian actors may wish to (continue to) engage in open and frank dialogue with governments and donors regarding challenges encountered in high-risk environments, and to seek guidance regarding the best way to respond to those challenges. Additionally, humanitarian organizations may wish to continue developing information about counterterrorism laws and policies and communicate that information to their employees through training materials, written guidance, and other forms.

Research has demonstrated that many major humanitarian actors grapple, often in isolation, with the impact of counterterrorism laws and regulations, and those actors seek (usually unsuccessfully) to negotiate counterterrorism-related contract or partnership-agreement provisions individually, unaware of how other organizations approach similar dilemmas.<sup>2</sup> The Study may encourage the humanitarian sector to consider what additional data and evidence would be useful in framing their approach to donor governments, and in understanding how the seeming shift toward a more restrictive regulatory environment should be addressed.

### IV. BROAD TRENDS

Counterterrorism laws and regulations are increasing in scope and breadth in relation to a variety of major humanitarian donor governments.<sup>3</sup> Many in the humanitarian community view the global political environment, as well as the counterterrorism regulations they see reflected in grant agreements, as increasingly restrictive and focused on prevention of *any* direct or indirect benefit to designated groups and individuals. The humanitarian sector—after several years of intensive research and discussion on the relationship between counterterrorism measures and humanitarian action—may soon face a decision on whether and how to engage donor governments *as a sector* on this issue.

### V. STUDY-DESIGN CONSIDERATIONS

As states, donors, or organizations undertake further research on these issues, they may wish to consider ways in which to widely distribute a survey to an audience that may operate in many different environments and have access to varying levels of technology. Having an online survey, available in multiple

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2. See generally Counterterrorism and Humanitarian Engagement Project, “An Analysis of Contemporary Counterterrorism-related Clauses in Humanitarian Grant and Partnership Agreement Contracts,” Research and Policy Paper, May 2014.

3. See, e.g., Jessica Burniske and Dustin A. Lewis, with Naz K. Modirzadeh, “Suppressing Foreign Terrorist Fighters and Supporting Principled Humanitarian Action: A Provisional Framework for Analyzing State Practice,” Research Briefing, Harvard Law School Program on International Law and Armed Conflict, October 2015.

languages, with a URL that can be easily distributed may assist in disseminating the information across organizations with global operations. Professional organizations and other groups of humanitarian actors may prove helpful in disseminating the survey to a broad audience. In this domain, a survey seems more likely to succeed where there is a willingness of major humanitarian organizations to circulate the survey to thousands of staff in the field and where those organizations request that staff respond (or at least where those organizations are willing to share contact information for dozens, hundreds, or even thousands of staff with those conducting the survey). Finally, those undertaking surveys of humanitarian actors may wish to consider planning to open the survey at least for several weeks, allowing respondents ample time to complete the questions (particularly if there are open-ended questions). These steps may assist future research into the challenges facing humanitarian actors from counterterrorism laws and policies.

## **VI. POTENTIAL AREAS FOR FUTURE RESEARCH**

The Study attempted to pilot the kind of questions that might concretely document and measure the much-discussed “chilling effect” that counterterrorism laws, policies, and donor regulations may have on humanitarian action in situations of armed conflict involving designated groups and individuals. The following are suggestions for more substantively-focused and widely-circulated empirical research.

### **Costs of Compliance**

Many studies on counterterrorism measures and humanitarian action suggest that humanitarian organizations are expending more money and other resources attempting to comply with counterterrorism-related requirements, risk-avoidance, and reporting than donors realize. An empirical study might seek to identify the precise monetary burdens on humanitarian actors, especially those grappling with multiple (and often-unclear) donor government requirements. Such a study might seek to establish the total per annum costs of compliance (or perceived compliance) with counterterrorism regulations (as well as the costs of seeking to prevent liability under unclear and rarely-enforced criminal counterterrorism provisions in a wide variety of national jurisdictions) and a break down of costs associated with different types of compliance activity. Such expenditures could include vetting, purchasing of software, dedication of staff time to compliance efforts, training programs, legal advice in multiple jurisdictions, additional security required in areas where counterterrorism approaches have created risks from local armed groups, and additional staff dedicated to vetting and compliance (on-the-ground and/or at headquarters).

### **Humanitarian Activities Not Undertaken**

The Study and other research on counterterrorism measures and humanitarian action suggest that major humanitarian actors (either at the field level or

at headquarters) may prematurely end or cease to undertake needs-based assistance activities due to actual or perceived counterterrorism regulations. Future empirical research might seek to document the activities, programs, and even proposals that are ceased prematurely or that are significantly altered or diminished due to concern arising in relation to counterterrorism regulations or perceived regulatory risks.

### **Humanitarian Activities Legally Prohibited or Significantly Limited by Counterterrorism Regulations**

In discussions between donor governments and humanitarian actors, some governments have stated that humanitarian actors misperceive the restrictions placed on their activities through counterterrorism laws and policies. Some government actors indicate that humanitarian actors may exaggerate the prohibitory effects of counterterrorism regulations, or urge humanitarian actors to consider the government's record in order to highlight that humanitarian actors are rarely (if ever) prosecuted under terrorism-related criminal laws, even where those laws criminalize certain humanitarian activities. In all, these discussions between donors and humanitarian actors seem to be rarely productive. That is in part because humanitarian actors may continue to be uncomfortable engaging in activities that appear to violate criminal laws, while government representatives insist that concrete evidence of adverse legal impact (or lack thereof) should be a primary consideration in weighing the effects of criminal laws. Further, humanitarian actors may prefer that their understanding of criminal law remains vague, hoping that minimal clarification or discussion of what "legitimate" humanitarian activities do violate criminal laws will functionally limit the possibility of prosecution. Yet, in order for the humanitarian sector and governments to have an effective, meaningful, and evidence-based dialogue regarding how counterterrorism-related criminal laws are (perhaps increasingly) affecting the humanitarian sphere, it may be especially important to have a clear understanding of which mutually-desired and mutually-supported activities are prohibited by one or more criminal sanctions.

### **Measuring Increasing Restrictions over Time**

Initial research and engagements with major humanitarian actors indicate that counterterrorism-based regulations and requirements are increasing and are spreading not only geographically but also in terms of the range of government and agency donors adopting more restrictive counterterrorism approaches. What may have once been seen as a tension arising primarily from one or two major donors may now constitute a range of counterterrorism-based policies and regulations that must be negotiated with virtually all government donors, donor funds, and intergovernmental donors. Since the rise of ISIS, and in light of growing concern over new forms of diversion or unintentional support to designated individuals and groups that control territory, humanitarian actors have found that an expanding range of donor governments impose new or

broadened vetting regulations and new or broadened definitions of prohibited activities. To the extent that the dilemmas highlighted in the Study and in other reports may be seen as becoming more pressing and creating concerning obstacles to emergency assistance, both humanitarians and governments need access to credible, objective data regarding the range of restrictions that are being imposed on the humanitarian sector. It may be particularly helpful for government donors to understand the breadth of differing (and possibly competing or conflicting) counterterrorism provisions that grantee humanitarian organizations face from their range of donors.

### Deep Analysis of Vetting

A number of publications have described and analyzed U.S. government-promulgated partner-vetting systems. Additionally, several studies have looked at how vetting obligations and efforts may undermine humanitarian principles, particularly insofar as those obligations and efforts require the vetting of certain beneficiaries. However, as vetting requirements, counterterrorism contract and partnership-agreement clauses, and government policies have proliferated and become more complex, there is currently no comprehensive analysis of major humanitarian actors' approaches to vetting. Such a study might look closely at:

- The private companies that develop and market terrorist vetting databases;
- The extent to which these databases might include individuals who are not actually designated by relevant governments (so-called “grey lists”);
- The rates of positive and negative “hits” humanitarian organizations encounter as part of their vetting processes;
- The amount of time and money humanitarian actors spend on vetting efforts;
- The regions or contexts where humanitarian actors are required to vet beneficiaries;
- Contexts where donor governments require “pre-approval” for projects to move forward only after vetting has been conducted;
- The various forms of “enhanced” vetting; and
- The extent to which vetting is seen as effectively preventing diversion.

### The Security Benefits of Counterterrorism Regulations

Justifications for increasingly stringent counterterrorism regulations imposed on humanitarian actors (particularly those regulations imposed by government donor agencies) vary from broad security concerns to the efforts of donor agencies to protect themselves from reputational and legal liability in the event grantee resources might be diverted to designated groups or individuals. This often involves an attempt to shift risk (partially or totally) from donors to humanitarian actors. Yet, there has been little empirical analysis of the actual security gains derived from counterterrorism clauses, regulations, and policies. Numerous methodological and research approaches could be utilized to assess the extent to which efforts by humanitarians to comply with counterterrorism

regulations might in fact lower diversion risks, decrease the likelihood of terrorist acts, or otherwise affect the ability of a designated group to conduct acts of terrorism.

### The Impact of Criminal Law on Donor Contracts or Agreements

Counterterrorism-related donor regulations, policies, and criminal laws are often considered distinct and separable in discussions regarding counterterrorism measures and humanitarian action. To support an evidence-based policy discussion, it may be useful to conduct research (including empirical analysis, review of criminal enforcement, and interviews with government officials) to better understand and document the link between criminal law and donor regulations and policies. In that connection, issues to consider addressing might include the extent, if any, to which government donor agencies are internally pressured to align their approach to funding to national criminal provisions, and whether donors and the humanitarian sector see criminal laws and donor policies as connected.

## VI. AREAS FOR REFLECTION

### The Clarity/Ambiguity Debate

Many workshops, meetings, and discussions within the humanitarian sector have focused on the question of whether the lack of clarity regarding the impact of counterterrorism regulations (as further demonstrated in the Study) and ambiguity surrounding the extent to which these regulations apply to humanitarian activities might be beneficial—or deleterious—to the sector. That is, many have asserted that it is preferable for the humanitarian community *not* to seek clarity regarding counterterrorism regulations, *not* to directly engage donor governments on the impact of counterterrorism measures, and *not* to request information from donors regarding how they envision compliance—all because doing so might result, under this rationale, in greater enforcement or regulatory attention. Indeed, humanitarian actors have noted that donor representatives themselves sometimes urge their humanitarian interlocutors not to request clarity or a better understanding of complex counterterrorism policies. Others argue that this “don’t ask, don’t tell” approach is short-sighted, fails to appreciate the real impact of counterterrorism measures on humanitarian action overall, and enhances the ability of government regulators to individually negotiate contract terms to the detriment of the sector as a whole. Some fields, such as contract law, have produced extensive empirical research and scholarship on the question of ambiguity. It may be useful to seek to measure the extent to which ambiguity and lack of clarity are actually benefitting humanitarian action (if at all). Targeted research on this question may inform this debate and push it beyond abstract claims, anecdotes, and personal preferences.

Once such research has been conducted, the humanitarian sector may wish to weigh the costs and benefits of ambiguity and confusion versus greater clarity. Ultimately, if this debate remains unsettled, it may be challenging for the humanitarian sector as a whole to make strategic decisions regarding how best to address this issue and to engage donor governments and counterterrorism officials. To the extent that a major divide exists between those who view clarity as a risk and those who view ongoing ambiguity as costly, it will be difficult to develop a coherent approach to counterterrorism measures.

### **Increasing Knowledge of Counterterrorism Regulations within the Humanitarian Sector?**

In line with several other major research efforts over the past several years, the Study demonstrated that humanitarian professionals wish to have more knowledge, information, and understanding of counterterrorism laws and policies. It may seem obvious that one of the conclusions that ought to be drawn from the Study is for humanitarians to invest in training, knowledge development, and awareness raising of counterterrorism regulations. Yet, this issue may be less simple than suggested by the findings contained in the Study. While individual humanitarian staff may be deeply frustrated by their lack of understanding of counterterrorism laws and regulations, given the extensive divisions within the humanitarian community regarding the impact of counterterrorism policies and whether clarity itself is a risk, it may not, on the whole, be useful to provide trainings or awareness-raising efforts at field- or headquarters-levels. Further, to the extent that major humanitarian actors remain undecided as to how they should approach counterterrorism regulations, the extent to which they should comply with them, and the extent to which they can strategically ignore certain policies, it is difficult to imagine how knowledge-development and awareness-raising efforts for staff will be constructive.

Any accurate and constructive training or knowledge-building exercise on counterterrorism laws and policies will need to provide a description of various criminal provisions (in the host state, donor states, and relevant states that apply their criminal laws extraterritorially), as well as vague and poorly-understood counterterrorism clauses in donor grant agreements. Such descriptions are likely to raise alarm and concern among staff, particularly to the extent that humanitarian organizations are not able to answer many staff questions (for example, whether staff are individually criminally and civilly liable for actions undertaken in the course of their humanitarian employment, the extent to which lack of past enforcement ought to inform expectations of future enforcement, or whether it is likely that counterterrorism clauses in grant agreements will be enforced in the future). Until the humanitarian sector as a whole has developed sufficiently clear policies, strategies, and widely-shared understandings of key questions (such as clarity versus ambiguity, understanding of impact, principled approaches to due diligence and vetting, and whether there are principled “red lines” that humanitarian actors should not cross in their negotiations with

government donors), general trainings and awareness-raising for humanitarian professionals may exacerbate anxiety, concern, or confusion that organizations and donors may not be able to address.

In this sense, the Study's findings on the question of the need for additional knowledge and understanding may be seen as urging major humanitarian actors and leaders within the sector to prioritize developing shared approaches to counterterrorism overall, *prior* to investing in more training or more awareness-raising. Increasing awareness of this issue without simultaneously providing clear, coherent, and practical guidance to staff seems unlikely to enhance humanitarian action in relation to high-risk areas.

### Methodological Approaches

In conducting this and other research, the CHE Project at HLS PILAC has frequently encountered confusion and concern regarding the extent to which research in this sector is even possible or is legally and ethically sound. That is, to the extent that any empirical research on this issue involves asking individuals to discuss activities that may be subject to criminal sanction, or to the extent that researching counterterrorism clauses and due diligence efforts risks highlighting where donors and humanitarians may have come to a tacit agreement to overlook certain requirements, it may be difficult to set the parameters for effective research. Indeed, many humanitarian organizations may have been reticent to encourage staff to participate in the survey underlying the Study (despite its anonymity), as well as other research initiatives, for fear that staff would divulge concerns or approaches that could be seen as legally concerning. In other contexts, humanitarian staff may be (justifiably) concerned about articulating activities that might be legally concerning or describing “work-arounds” to regulations out of a concern that any documentation of such tactics would create or increase legal liabilities. It may be useful for the humanitarian sector to dedicate resources to explore how they can become and remain informed on developments in this sector while minimizing legal risks. This may involve drawing from other disciplines and areas of quantitative and qualitative analysis where similar issues arise. Once the sector is able to identify and agree upon methodologies that appear effective and ethical, they could be more widely and rapidly deployed to address specific questions and concerns. This would also avoid newcomers to research and policy in this area having to “reinvent the wheel” regarding their approach to analysis.

### Strategic Agenda-Setting and Decision-Making

There have been at least five years of dedicated financial, personnel, and political investment by donors, major humanitarian actors, and intergovernmental agencies on questions concerning the intersections of counterterrorism measures and humanitarian action. It may therefore be time for the sector to consider strategic steps forward. Some powerful humanitarian actors (or at least some senior staff within those organizations) view the dilemmas as exaggerated, do

not see the impact of counterterrorism regulations as significant, and believe that organizations should *not* run the risk of undermining their relationships with government donors by emphasizing the challenges posed by counterterrorism policies or advocating for reform. Those with this perspective may further view continued engagement or public outreach on this issue as not only unnecessary but highly risky. These individuals may also point to the ongoing funding of humanitarian operations even in high-risk areas, as well as the demonstrated willingness of certain donor governments to overlook (or at least not to enforce) their own criminal laws and contract clauses, as evidence that counterterrorism frameworks are not a sufficient threat to humanitarian efforts. Those holding this perspective may see a risk to funding and donor confidence were their organizations to participate in strategy development or public statements regarding the impact of counterterrorism measures on humanitarian action. They may also view their own (or their specific organization's) ability to negotiate with government donors as superior to those of others, and they may therefore see their ability to create preferential terms as protected by a more "silo-ed" approach.

On the other side of the spectrum, many within the humanitarian sector view the rise of counterterrorism-related rhetoric, criminal law, and regulations as a major challenge for principled humanitarian action. These individuals may wish to increase investments of time and political capital in building coalitions that will seek to urge donor governments and intergovernmental bodies to significantly change existing laws, contract terms, and regulatory policies. This perspective may view further research, empirical analysis, and public advocacy as critical to the survival of principled humanitarian efforts in this arena, particularly as they see regulations and restrictions (and the related compromises on the part of humanitarian actors) as increasing across the board. Those holding this perspective may view ongoing silence and lack of a coordinated strategic approach as detrimental to the humanitarian sector as a whole. They may also view bilateral and non-transparent negotiations with individual donors as empowering government regulators to impose more restrictive and more divisive policies on interlocutors who are often not communicating with one another. These individuals within the humanitarian sector may see as crucial the development of a shared strategy on these issues, one where humanitarian actors are able to present a more unified perspective and set of requests to governments.

It is difficult to imagine a productive engagement with governments and intergovernmental bodies, whether on the issue of humanitarian exemptions, reform of criminal law, model donor clauses, due diligence requirements, or safe harbors until the humanitarian sector is able to build a bridge or at least shorten some of the distance between these two perspectives. So long as senior staff and leaders in the sector do not share a perspective on the fundamental questions underlying the impact of counterterrorism measures on humanitarian

action, the effectiveness of further study or development of possible solutions will likely be stymied.

As the Study indicates, it is possible—with the investment of time, research, and cooperation on the part of the sector—to produce more concrete and fine-grained understanding of the impact of counterterrorism measures on humanitarian action. It is also possible to better understand the concrete risks humanitarian actors face, or the activities they are *not* undertaking, because of counterterrorism laws and policies. It is further possible to understand whether the current overall approach to counterterrorism regulations (one that privileges the value of ambiguity; one that emphasizes individual, non-transparent, and competitive negotiation with donors; one that largely eschews public advocacy) is benefiting or hindering humanitarian efforts. The outcomes of such additional research will serve this purpose only if the humanitarian sector agrees that an evidence-based approach to policy is appropriate in this domain. Further understanding in this arena will provide a return on investment only if humanitarian actors decide to take up the fundamental issue with donors, with intergovernmental organizations, and within their own senior management.

Stepping back, it may be that a clear decision-making moment is emerging, where the humanitarian sector must determine whether it wishes to address the impact of counterterrorism measures on humanitarian action—and, if so, how to do so—*as a sector*.