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**CONGRESSWOMAN SHEILA JACKSON LEE,**  
**OF TEXAS**

**FULL COMMITTEE MARKUP**

**H.R. 3845, THE “USA PATRIOT AMENDMENTS ACT OF 2009”**

**Thursday, November 5, 2009, 11:00 a.m.**

**2141 Rayburn House Office Building**

**STATEMENT CONCERNING HUMANITARIAN AID**

**EXCEPTION TO MATERIAL SUPPORT STATUE**

Mr. Chairman, I have an Amendment at the desk. Before discussing my amendment, let me commend you for authoring this bill of which I joined Mr. Nadler, Mr. Scott, and Mr. Johnson as original

cosponsors. This legislation seeks to limit overly broad provisions of law that have unacceptably diminished Americans' privacy over the last eight years.

That said, I propose that we use this opportunity where we're addressing the Patriot Act to amend the material support for terrorism statute to expand the exemption for humanitarian aid. Currently, charities and human rights organizations and their employees face severe legal sanctions, including prison time, for providing aid essential to saving lives. Such sanctions should be imposed only on those who mean to support terrorism, not on those who provide legitimate humanitarian aid.

In addition, the humanitarian exemption for medicine and religious materials should be expanded to include medical services and equipment, water sanitation facilities, materials required for emergency response, educational materials and activities, development activities

that contribute to self-sufficiency, and conflict resolution and human rights based programs aimed at reducing violent extremism.

Originally, I wanted to take a more expanded view of this issue. Specifically, I wanted to enhance the intent requirement and exclude from the definition of material support, humanitarian aid items such as food, water, water sanitation materials, medical services, blankets, clothing, and shelter. However, after consultations with some of you, I've narrowed my amendment significantly.

First, my amendment only adds to the current material support exceptions --- for medicine and religious materials such as bibles --- two other essential items, food and water. Furthermore, my amendment limits the occasions when these items could be given --- to times of natural disasters. My narrower approach was also influenced by a similar amendment that was offered by my dear friend Mr. Scott during the 109<sup>th</sup> Congress. Then, Mr. Scott's Amendment included a broader provision for humanitarian aid, which raised some concerns and was

opposed by some Members of the Committee. I believe that my carefully crafted amendment addresses these concerns.

As a member of the Foreign Affairs Committee, I believe that water and food are particularly important during disasters such as tsunamis, earthquakes, and famine. Currently, charities and human rights organizations and their employees face severe legal sanctions, including prison time, for providing aid essential to saving lives. Items such as medical services and equipment, water sanitation facilities, materials required for emergency response, educational materials and activities, development activities contribute to self-sufficiency, and conflict resolution. Human rights groups believe that this amendment is important to further their efforts to reduce violent extremism rather than support it.

Some have argued that they fear that outlawed groups may unduly benefit from the humanitarian aid included in my bill because it frees up money for these groups to spend on non humanitarian materials. In

response, I offer the following. First, it is important to note that the charitable sector has due diligence procedures in place that can prevent humanitarian resources from freeing up resources to support violent activities.

Next, in cases of natural disasters, terrorist groups (or affiliated parties) may be the only actors in a position on the ground to aid the victims of calamities. Thus, denying these groups food and water, we put ourselves in the position to isolate innocent men, women, and children in devastated areas, which prevents us from lending a hand to save lives.

Third, a leading human rights group, the Charity and Security Network, can find no evidence to support the claim that every dollar given for food and water provides terrorists resources to conduct unlawful actions (also known as the “dollar-for-dollar fungibility claim”). In researching this issue, every citation the Charity and

Security Network found on this point led back to a general, unsupported statement.

Further, the primary weakness of the fungibility argument is that it does not take public diplomacy into account. The U.S. reputation has suffered by freezing millions of charitable dollars. But when U.S. charities provide aid there is increased goodwill.

For example, surveys in Indonesia two years after the 2004 tsunami found that after more than \$13.4 billion in U.S. humanitarian aid went to help victims 44 percent of respondents reported a favorable view of the U.S., compared to 15 percent before the tsunami. Support for Osama bin Laden was at its lowest level since 9/11. A similar survey after the 2005 earthquake in Pakistan found that 75 percent of Pakistanis had a more favorable opinion of America, and most cited earthquake relief as the reason.

My amendment has won the support of several members of the committee as well as over a dozen civil liberties groups including American Civil Liberties Union, American Library Association, Association of Research Libraries, Brennan Center for Justice Center for Democracy & Technology, Center for Media and Democracy Constitution Project, Electronic Frontier Foundation, Government Accountability Project, Muslim Advocates, Muslim Public Affairs Council, National Association of Criminal Defense Lawyers, National Lawyers Guild – National Office, and OMB Watch.

Mr. Chairman, if there is insufficient support for these amendments, can I get your assurance and that of Chairman Nadler that we can work together to address both issues this Congress by convening hearings on this matter?

Based upon your commitment, I ask respectfully to withdraw my amendment and yield back the balance of my time.