

## Module 2 – The Humanitarian Charter

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### **Please note there is no background note for this Module**

The Humanitarian Charter Module has attempted to provide space for reflection on some of the challenges facing the humanitarian community, and on the implications of the Humanitarian Charter for both individuals and organisations. We do not suggest there are any simple solutions to the challenges faced by the humanitarian community.

This module seeks, simply, to provide a learning framework in which to examine some of the key issues in greater depth.

It is important that the four sessions outlined in this module are used at the discretion of the trainer and according to the needs of the audience.

### Trainers' Notes

#### **Module 2 is designed to enable participants to:**

- explore humanitarian issues
- identify the role of the Humanitarian Charter
- identify key content of the Humanitarian Charter
- consider the impact of the Humanitarian Charter on their work and performance.

#### **You can use Module 2 in number of ways, selecting from:**

- 4 x 90 minutes core sessions
- 15 optional exercises (more than 13 hours of material to choose from).

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#### **Please:**

- review these materials carefully
- adapt them to meet the needs of your audience
- see Part 1: Section D: Trainers' Guide for guidance on maximising the impact of your training.

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Use this training material for:

- all the trainers' notes relating to Module 2
- a toolkit of optional exercises and handouts which you may want to build into the training programme.

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#### **Review the slides for this module:**

- use 'Module 2 slides' on the CD
- see print-outs in Part 1: Section E: Trainers' Guide

**For information and guidance on how to get the most from these training materials, including example agendas:** see Part 1: Section B: Trainers' Guide

<b>SESSIONS</b>
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	Use	Page
<a href="#"><u>Session 1</u></a> <a href="#"><u>Main</u></a> <a href="#"><u>messages of</u></a> <a href="#"><u>the</u></a> <a href="#"><u>Humanitarian</u></a> <a href="#"><u>Charter</u></a> 90 minutes	<b>Enable participants to:</b> <ul style="list-style-type: none"> <li>• identify key messages in the Humanitarian Charter</li> <li>• demonstrate how the Humanitarian Charter provides a framework for understanding humanitarian work.</li> </ul>	71
<a href="#"><u>Session 2</u></a> <a href="#"><u>Fundamental</u></a> <a href="#"><u>human rights</u></a> <a href="#"><u>concepts</u></a> 90 minutes	<b>Enable participants to:</b> <ul style="list-style-type: none"> <li>• identify the sources of Principle 1 of the Humanitarian Charter 'the right to life with dignity'</li> <li>• describe the basic concepts of human rights and dignity</li> <li>• describe legal and moral duties and obligations in relation to human rights</li> <li>• examine the universality of human rights and values.</li> </ul>	77
<a href="#"><u>Session 3</u></a> <a href="#"><u>The</u></a> <a href="#"><u>international</u></a> <a href="#"><u>legal</u></a> <a href="#"><u>framework</u></a> 90 minutes	<b>Enable participants to:</b> <ul style="list-style-type: none"> <li>• identify the source of Principle 2 'the distinction between combatants and non-combatants' and Principle 3 'the right to non-refoulement' of the Humanitarian Charter</li> <li>• describe the basic principles and scope of International Humanitarian Law</li> <li>• describe the legal duties and obligations of states in relation to protecting civilians and providing assistance</li> <li>• examine the law in relation to the status of refugees and IDPs.</li> </ul>	95
<a href="#"><u>Session 4</u></a> <a href="#"><u>Implications</u></a> <a href="#"><u>of the</u></a> <a href="#"><u>Humanitarian</u></a> <a href="#"><u>Charter</u></a> 90 minutes	<b>Enable participants to:</b> <ul style="list-style-type: none"> <li>• describe implications for programme planning and design that arise from the Humanitarian Charter</li> <li>• recognise the importance of human rights and 'dignity' as underpinning principles in humanitarian operations</li> <li>• identify how their organisations' current activities may be improved to help people affected by disasters to achieve their human rights.</li> </ul>	125

**Total time for sessions 1 - 4 = about 6 hours**

## Optional toolkit

In addition to the four core sessions of at least 90 minutes each, there are 15 optional exercises, offering over 13 hours of training. These enable you to use the modules flexibly to meet the specific needs of your audience.

Review these activities to see how you can build them into your training programme to enhance impact and retention. Further optional exercises are available in other modules and on-line at:

[www.sphereproject.org](http://www.sphereproject.org)

## SECTION A: Basic concepts – rights, principles, citizenship and human rights

**You can use these exercises to support:**

- session 1: Main messages of the Humanitarian Charter

Optional toolkit exercises	Use	Page
<b>1</b> <a href="#">What are principles?</a> 40 minutes	<ul style="list-style-type: none"> <li>• build awareness of how the need for laws emerges</li> <li>• focus the group on basic civil and societal needs</li> <li>• focus on basic civil society concepts including duties</li> </ul>	<b>134</b>
<b>2</b> <a href="#">Culture and rights</a> 20 minutes	<ul style="list-style-type: none"> <li>• to enable participants to gain a wider perspective on the factors for and against the Humanitarian Charter</li> <li>• to raise awareness of the danger of making assumptions.</li> <li>• as a quick activity to focus the group on the wider picture, for example after reviewing legal detail during Module 2</li> </ul>	<b>136</b>
<b>3</b> <a href="#">Humanitarian Principles and the individual</a> 60 minutes	<ul style="list-style-type: none"> <li>• promote awareness of the RC/RC and NGO Code of Conduct</li> <li>• make a link between the RC/RC and NGO Code of Conduct and the Humanitarian Charter</li> </ul>	<b>137</b>
<b>4</b> <a href="#">An allegory Story telling exercise</a> 90 minutes	<ul style="list-style-type: none"> <li>• enable participants to gain a deeper understanding of core humanitarian concepts</li> <li>• challenge participants' concept of citizenship and social principles</li> <li>• explore factors that influence humanitarian contexts</li> </ul>	<b>138</b>

## SECTION B: Human rights and the international legal framework

**You can use these exercises to support:**

- session 2: Fundamental human rights concepts
- session 3: The international legal framework

Optional toolkit exercises	Use	Page
<b>5</b> <a href="#">Concept questions</a> Discussion 60 minutes	<ul style="list-style-type: none"> <li>• at the end of a session, as an exercise to review learning</li> <li>• as a competitive quiz to generate interest</li> <li>• as a study exercise for an individual participant</li> </ul>	<b>146</b>
<b>6</b> <a href="#">Quiz on the legal instruments</a> Quiz 30 minutes	<ul style="list-style-type: none"> <li>• at the end of a session, as an exercise to review learning</li> <li>• as a competitive quiz to generate interest</li> <li>• as a study exercise for an individual participant</li> </ul>	<b>148</b>
<b>7</b> <a href="#">Statements in international law</a> Game 90 minutes	<ul style="list-style-type: none"> <li>• at the end a session to test and reinforce learning</li> <li>• to further explore some of the concepts in international law</li> </ul>	<b>151</b>

## SECTION C – The Implications of the Humanitarian Charter

**You can use these exercises to support:**

- Session 3: Implications of the Humanitarian Charter

Optional toolkit exercises	Use	Page
<b>8</b> <a href="#">Protection</a> Case study 60 minutes	<ul style="list-style-type: none"> <li>• after session 3 or 4</li> <li>• to consolidate learning in the specialised area of protection of refugees</li> <li>• to look at issues around protection, refugee law and advocacy</li> <li>• to encourage participants to consider terms of engagement</li> </ul>	<b>156</b>
<b>9</b> <a href="#">Actor mapping</a> Stakeholder mapping exercise 90 minutes	<ul style="list-style-type: none"> <li>• at any point through the training module to demonstrate the importance of mandates, coordination and analysis of the actors</li> <li>• exploring the roles and responsibilities of actors in the field</li> </ul>	<b>162</b>
<b>10</b> <a href="#">Debate questions</a> Debate 60 minutes	<ul style="list-style-type: none"> <li>• at any point throughout the module to energise people</li> <li>• to help the group work through a contentious topic</li> </ul>	<b>166</b>
<b>11</b> <a href="#">Protection and complementarity</a> Case studies 60 minutes	<ul style="list-style-type: none"> <li>• after session 4</li> <li>• to develop analysis skills for organisations to plan for rights based programming</li> </ul>	<b>169</b>

## SECTION D: Humanitarian principles and dilemmas

You can use this as supplementary training materials to explore wider issues arising from the Humanitarian Charter.

Optional toolkit exercises	Use	Page
<b>12</b> <a href="#">Bus stop dilemma</a> Awareness raiser 10 minutes	<ul style="list-style-type: none"> <li>to introduce the concept of dilemmas in humanitarianism</li> <li>as an introduction to more involved exercises in principles and dilemmas</li> </ul>	<b>176</b>
<b>13</b> <a href="#">Advocacy</a> Simulation 60 minutes	<ul style="list-style-type: none"> <li>help participants to apply key international legal instruments</li> <li>build skills</li> <li>review learning</li> </ul>	<b>177</b>
<b>14</b> <a href="#">Humanitarian dilemmas</a> Case studies 60 minutes	<ul style="list-style-type: none"> <li>explore some of the dilemmas humanitarian staff and agencies face in complex emergencies</li> <li>enable participants to apply their learning to real situations</li> <li>enable participants to identify the implications of dilemmas</li> <li>stimulate debate and discussion around key issues in humanitarian work</li> <li>help participants develop strategies for dealing with humanitarian dilemmas</li> </ul>	<b>185</b>
<b>15</b> <a href="#">Humanitarianism: Imperatives and principles</a> Team case study 45 minutes	<ul style="list-style-type: none"> <li>help participants to gain a deeper understanding of the consequences of their decisions</li> <li>explore International Humanitarian Law, Memorandums of Understanding and humanitarian principles in a realistic context</li> <li>enable participants to consolidate, develop and apply the learning from Module 2</li> </ul>	<b>190</b>

**Total time for sessions 1 - 6 = about 10 hours**

## Module 2

### Session 1: Main messages of the Humanitarian Charter

#### Overview

#### Learning objectives

At the end of the session, participants will be able to:

- Identify key messages in the Humanitarian Charter.
- Demonstrate how the Humanitarian Charter provides a framework for understanding humanitarian work.

#### Main messages:

- The Humanitarian Charter helps agencies and individuals reflect upon the humanitarian identity.
- Values and principles outlined in the Humanitarian Charter.
- Overview of the international legal instruments and the Code of Conduct.

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**Timing** ⌚ **90 minutes.**

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**Method** Team work / Facilitated discussion

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**Resources needed** Laptop / data projector / screen / flipchart and pens / The Sphere Handbook

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**Visual aid** PowerPoint slides

## Session 1: Main messages of the Humanitarian Charter

Time	Activity
<b>5</b>	1: Introduction
<b>10</b>	2: Individual study of the Humanitarian Charter
<b>40</b>	3: Team work on the humanitarian identity
<b>30</b>	4: Facilitated group discussion
<b>5</b>	5: Conclusion
<b>90</b>	<b>TOTAL TIME</b>

You can find copies of all the slides in this Module in  
**Part 1: Trainers' Guide: Section E.**

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## Activity 1: Introduction – What is Humanitarianism?

**5 mins**

- ☐ Show slide: 'Title slide: Module 2 The Humanitarian Charter'

**Keep this slide on screen while people are arriving.**

- ☐ Show the session title slide: 'Session 1: Main messages of the Humanitarian Charter'.

**Welcome the group.**

- ☐ Show slide: 'Learning objectives'

**Explain the objectives for the session:**

- To identify key messages in the Humanitarian Charter.
- To demonstrate how the Humanitarian Charter can provide a framework for understanding humanitarian work.

**Explain that:**

- The word "humanitarian" has different meanings depending on the situation in which it is being used.
- It is important that we, as a community, have a shared understanding of what being a humanitarian is all about, what humanitarians do, and how they do it.
- So, we need a clear and shared understanding of the 'humanitarian identity'.
- We can begin this understanding by exploring a framework of the principled actions humanitarians take to alleviate human suffering.

**You may want to introduce the following brainstorm by asking how people explain their vocation to their mothers or to a stranger.**

**Draw on the flipchart a big circle labelled with the word 'humanitarianism'.**

**Write in the circle the two titles:**

- What?
- How?

**Ask:**

- 'What do humanitarians do?'

**Record their ideas on the flipchart under the WHAT title.**

**Review the answers with the group. If not raised by them suggest the following key terms:**

- advocacy, humanitarian imperative, protection, assistance, alleviating suffering.

**Ask:**

- 'How do humanitarians work?'

**Record their ideas on the flipchart under the HOW title.**



**Review the answers with the group. If not raised by them suggest the following key terms:**

- voluntary service, with respect for dignity, accountability, participation.

**Explain that:**

- this session provides an opportunity to reflect on the Humanitarian Charter as a framework for discussing humanitarian action or humanitarianism.


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## Activity 2: Individual study of the Humanitarian Charter

### 10 mins

**Ask them to:**

- read the Humanitarian Charter in the Sphere Handbook
- underline or highlight while they are reading it key phrases that are important to them.

 Allow up to 10 minutes for them to review the Humanitarian Charter.

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## Activity 3: Team work on the humanitarian identity

### 40 mins

**Ask them to:**

- work in teams of 5-6 people.

**Make sure each team has a piece of flipchart paper and pens.**

☐ Show slide: Task: Humanitarian Identity.

**Ask each team to:**

- discuss the questions on the slide
  1. Which principles inform how humanitarian action (protection and assistance) is carried out?
  2. Why is it necessary for humanitarian agencies to consider the roles and responsibilities of others?
  3. To whom are humanitarian agencies accountable?
- write a few main messages from their discussion on a flipchart to share with the group in a presentation of no more than two minutes
- focus and inform their discussion with reference to the Humanitarian Charter.

 Allow groups about 40 minutes to prepare their presentation.

**Circulate round the teams to offer support and monitor that discussions are on track.**


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## Activity 4: Facilitated group discussion

### 30 mins

**Bring the group back together.**

**Ask each team in turn to make a concise, two minute presentation of their work.**

 Allow up to 10 minutes in total for the team presentations, depending on the number of teams.

**Facilitate a group discussion. The following guide suggests questions, answers and comments to prompt and inform the discussion under each topic.**

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## Discussion guide for trainer: Question 1

**Which principles inform how humanitarian action (protection and assistance) is carried out?**

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Refer to section 1 of the Humanitarian Charter, Principles:

- Principle 1 – The right to life with dignity
  - Principle 2 – The distinction between combatants and non-combatants
  - Principle 3 – The principle of non-refoulement
  - The Humanitarian Charter also states that: “Agencies committed to the Humanitarian Charter will **aim to achieve the Minimum Standards** and to **promote the observance of fundamental humanitarian principles.**”
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What are some of the fundamental humanitarian principles?

- For example: The RC/RC 7 fundamental principles (humanity, impartiality, neutrality, independence, voluntary service, unity and universality). Conditions for humanitarian action (that it should be impartial and independent) are also referred to in The Geneva Conventions of 1949 and their additional protocols of 1977. We will examine this in more detail in session 3.
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Additionally the 10 principles from the RC/RC and NGOs Code of Conduct (1994), particularly Principle 1 - ‘The humanitarian imperative’, meaning all possible steps must be taken to alleviate human suffering.

- Does this imply that agencies are obliged to act every time they are faced with human suffering?
  - Does this imply that individual humanitarians are obliged to act if confronted with information that will prevent or alleviate human suffering?
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What does promote mean? What type of humanitarian action can be taken to promote and help people achieve their rights? Can you name any organisations that make this their primary focus? (For example ICRC, UNHCR, MSF, Amnesty International, Human Rights Watch etc.)

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## Discussion guide for trainers: Question 2

**Is it necessary for humanitarian agencies to consider the roles and responsibilities of others?**

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- Refer to Section 2 of the Humanitarian Charter, Roles and Responsibilities.
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- Does this imply that agencies must work more closely with governments? The Humanitarian Charter states that: “We recognise that it is firstly through **their own efforts** that the **basic needs of people** affected by calamity or armed conflict **are met.**” However the Humanitarian Charter also acknowledges: “The **primary role and responsibility of the state to provide assistance** when people’s capacity to cope has been exceeded.”
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- In terms of peoples’ rights the Humanitarian Charter states that: “International law recognises that **those affected are entitled to protection and assistance.**” And that, in times of conflict there are: “**Legal obligations on States or warring parties** ... provide such assistance or allow it to be provided ... refrain from behaviour that violates fundamental human rights.”
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- While the Humanitarian Charter respects the legal framework of
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responsibility for civilians it recognises that governments are not always able to fulfil their obligations, which leaves a moral duty on others to assist: "As humanitarian agencies, we define our role in relation to these primary roles and responsibilities. Our role reflects the reality that those with primary responsibility are not always able or willing to perform this role themselves..."

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- NGOs take responsibility for: " minimising ...adverse effects of our interventions..."
  - Finally NGOs respect the different mandates of organisations like ICRC and UNHCR "...recognise and support the protection and assistance mandates of the ICRC and UNHCR ..." This in turn implies that humanitarian action encompasses a range of different activities which need to be complementary.
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## Discussion guide for trainers: Question 3

### To whom are humanitarian agencies accountable?

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- Refer to section 3 of the Humanitarian Charter, Minimum Standards. The last sentence carries a key message regarding the Minimum Standards: "...we commit ourselves to attempt consistently to achieve them and we expect to be held to account accordingly ..."
  - The implication in this section is that humanitarian agencies, working with willing states and other actors, should consistently recognise that: "...our fundamental accountability must be to those we seek to assist".
  - Additionally this section outlines an accountability to our own endeavour to meet the standards when assisting people affected by disasters, stating that these people should have "...access to at least the minimum requirements...to satisfy their basic right to life with dignity." This then extends the remit of our work as we also promise to: "...continue to advocate that governments and other parties meet their obligations ..."
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## Activity 5: Conclusion

### 5 mins

**Review the activity against the learning objectives. Ask some participants for a key message that they have taken from the session that might influence how they do their work differently.**

**Answer any questions or comments that may arise.**



## Module 2

### Session 2: Fundamental human rights concepts

#### Overview

**At the end of this session participants will be able to:**

- identify the sources of Principle 1 of the Humanitarian Charter 'the right to life with dignity'
- describe the basic concepts of human rights and dignity
- describe legal and moral duties and obligations in relation to human rights
- examine the universality of human rights and values.

**Main messages**

- The Humanitarian Charter has three principles, based in international law, that infer roles and responsibilities on duty bearers.
- Human rights are universal, enshrined in international human rights law, and impose duties on states. Human rights also imply a moral obligation for civil society.
- Principle 1 of the Humanitarian Charter, 'the right to life with dignity' describes one of the prime motivations for humanitarian action.

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**Timing** ⌚ **90 minutes.**

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**Method** Presentation / lecture / Team work-Context case study / Group discussion

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**Resources needed** Laptop / data projector / screen / software / flipchart and pens / The Sphere Handbook

**Visual aid** PowerPoint slides

**Preparation**

**Handout:** 'Glossary of Legal Terms'

**Handout:** 'The Universal Declaration of Human Rights (1948)'

**Handout:** 'A summary of UN agreements on human rights'

- Set of different coloured cards for participants in activity 1
- Photocopy all handouts to give to each participant
- Familiarise yourself with the Humanitarian Charter section of the Sphere Handbook
- Prepare for the PowerPoints as described in Part 1: section E: Trainers' Guide.

## Session 2: Fundamental Human Rights Concepts

Time	Activity
<b>30</b>	1: Introduction
<b>35</b>	2: Concepts
<b>20</b>	3: Presentation
<b>5</b>	6: Conclusions
<b>90</b>	<b>TOTAL TIME</b>

You can find copies of all the slides in this Module in  
**Part 1: Trainers' Guide: Section E.**

### Activity 1: Introduction 30 mins

☐ Show the session title slide: 'Session 2: Fundamental Human Rights Concepts'.

☐ Show slide: 'Learning objectives'

**Display this slide on screen while people are arriving.**

**Welcome the group.**

**Explain the objectives for the session:**

- To identify the source of Principle 1 of the Humanitarian Charter 'the right to life with dignity'.
- To describe the basic concept of human rights and dignity.
- To describe legal and moral duties and obligations in relation to human rights.
- To examine the universality of human rights and values.

**Give each participant the handout: 'Glossary of key legal terms'.**

**Explain that:**

- they will find this useful to refer to throughout this session and the rest of the module.


**Distribute two different coloured cards to each participant.**

**Ask them to:**

- imagine they are in their home town/village/place (the place of their citizenship)
- spend a couple of minutes thinking about this place, about their families, landscapes, schools and the community they live in
- write on one coloured card a value integral to their culture
- write on another coloured card a right that is integral to their culture.

**Ask them to:**

- arrange the cards on two flipcharts or opposite walls
- label one flipchart or wall 'values', and the other 'rights'.

 Allow up to 5 minutes.

**Bring the group back together.**

**Read through the values and rights and ask for clarification if needed.**

**Move any cards that are not on the right flipchart or wall.**

**Ask:**


- can anyone see values reflected in the rights?

**For example**

- the value of respect is reflected in the right to a life with dignity
- the value of learning is reflected in the right to education.

**Explain:**

- The human rights that are enshrined in international human rights law are a reflection of universally held values.

 Allow up to 5 minutes.

**Note to trainer:**


Do not get into discussion around religion or custom as that is not the point. The emphasis should be on human rights as an expression of values, and how the international human rights legal instruments provide a tool for their enforcement by indicating who has duties.

**Give each participant the following handouts:**

- The Universal Declaration of Human Rights (1948)
- A summary of United Nations agreements on human rights

**Ask participants to:**

- read both documents.

 Allow 10 minutes.

**Ask:**

- 'How easy were the documents to understand?'

**Explain that:**

- while humanitarian workers are not expected to be lawyers, it is important to be familiar with the relevant legal instruments
- the values that inform these rights come from many different cultures.


**Ask:**

- 'Can anyone see the rights on the flipchart reflected in this document?'

**If someone responds, get them to read the article aloud.**

**Ask:**

- Does anyone disagree with articles in the documents?

 Allow 10 minutes.

**Note to trainer:**

One of the points of doing this exercise is to give participants the opportunity to actually read some of the legal text, so they see it is accessible to lay people.

**Activity 2: Concepts****35 mins****Ask them to:**

- work in small teams
- select five rights from the cards written earlier by the group
- answer the questions on the slide.

☐ Show slide: 'Task: Concepts'

**Discussion guide for trainers**

Question	Guidance
<b>1: Where do human rights come from?</b>	We get human rights because we are human, no one can give them to you and no one can take them away – although they can be violated
<b>2: Who is entitled to human rights?</b>	Everyone. Human rights are universal and apply to all of us equally.
<b>3: Who can violate human rights?</b>	Anybody can violate the rights of human beings. States have a duty under international law to uphold human rights, and we all have a responsibility to respect the rights of others.
<b>4. How much food is the human right to food?</b>	A human right implies a certain standard, the right to life with dignity. Human rights guarantee more than survival, they identify the minimum standards for living with dignity. The Sphere Minimum Standards attempt to quantify and qualify that right at least in disasters.
<b>5. Who has the responsibility for ensuring people achieve their rights?</b>	States and warring parties have legal responsibilities under international law, although we all have the moral duty to respect other people's rights.
<b>6. What does it mean to be a citizen?</b>	You have rights and moral obligations under the national law of that country.

 Allow up to 15 minutes for groups to discuss.

**Call the group back together.****Explain that:**

- there are not necessarily 'right' or 'wrong' answers for some of the questions
- this is an emotive subject
- this part of the exercise provides an opportunity to discuss some of the concepts, express views and clarify concepts.

**Lead a group discussion on the key questions, recording key points on a flipchart.**



**Explain that:**

- it is essential to distinguish between 'legal' and 'moral' rights
- human rights, when related to international human rights law, entail a corresponding duty for a state to protect that human right through national structures, services and enforcement mechanisms
- this means that a 'right to' something always means that a state has the 'duty of' protecting that right
- however we all have moral duties to help people achieve their human rights by virtue of the fact we are part of civil society.


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**Activity 3: Presentation****20 mins**☐ Show slide: 'The Humanitarian Charter'**Explain the structure of the Humanitarian Charter:**

- The Rationale
- The Principles
- The Roles and Responsibilities
- Accountability
- The link to the Code of Conduct
- Sources.

**Explain that:**

- although many people concentrate on the three principles, the five pages of the Humanitarian Charter need to be read together, as they are all interdependent
- for example, there is no point proclaiming that people are entitled to a right to life with dignity if the responsibilities to the entitlement are not also considered.

 Allow 3 minutes.☐ Show slide: 'The rationale'**Explain that:**

- the Humanitarian Charter asserts that people affected by disaster have a right to their most basic needs for sustaining lives and dignity
- the Minimum Standards describe what those basic needs might be and how they might to ensure dignity
- in this way the Humanitarian Charter reflects a motivation for humanitarian action, where lives with dignity can be sustained and rights protected.

 Allow 3 minutes.☐ Show slide: 'The Principles.'**Explain that:**


- The three Humanitarian Charter Principles focus on motivations for humanitarian action
- The Humanitarian Charter also aligns itself with the principles laid out in the Red Cross and Red Crescent and NGO Code of Conduct guidance for humanitarian action.

**SUPPORTING INFORMATION**

This is the quote on the slide

The principles

*"We reaffirm our belief in the humanitarian imperative and its primacy...We will act in accordance with the principles of humanity and impartiality, and with the other principles set out in the Code of Conduct for the RC/RC and NGOs in Disaster Relief"*

 Allow 3 minutes.

☐ Show slide: 'The right to life with dignity.'

**Ask a participant to read this slide aloud.**

**SUPPORTING INFORMATION**


This is the quote on the slide

The right to life with dignity

*"We understand an individual's right to life to entail the right to have steps taken to preserve life where it is threatened, and a corresponding duty on others to take such steps. Implicit in this is the duty not to withhold or frustrate the provision of life-saving assistance"*

**Explain that:**


- the duties outlined on this slide describe both humanitarians' moral responsibilities, and states' legal obligations
- Principle 1 (The right to life with dignity) provides a compelling argument for the 'what' and the 'how' of humanitarian action.

 Allow 2 minutes.

☐ Show slide: 'How much food?'

**Explain that:**


- the right to a life with dignity is not just an abstract idea, in fact, it imposes a moral duty on the humanitarian sector
- as in this example on the screen, the Sphere Minimum Standards and key indicators offer a way to help us clarify how to carry out our duty by providing clear technical guidelines for fulfilling basic needs.

 Allow 2 minutes.

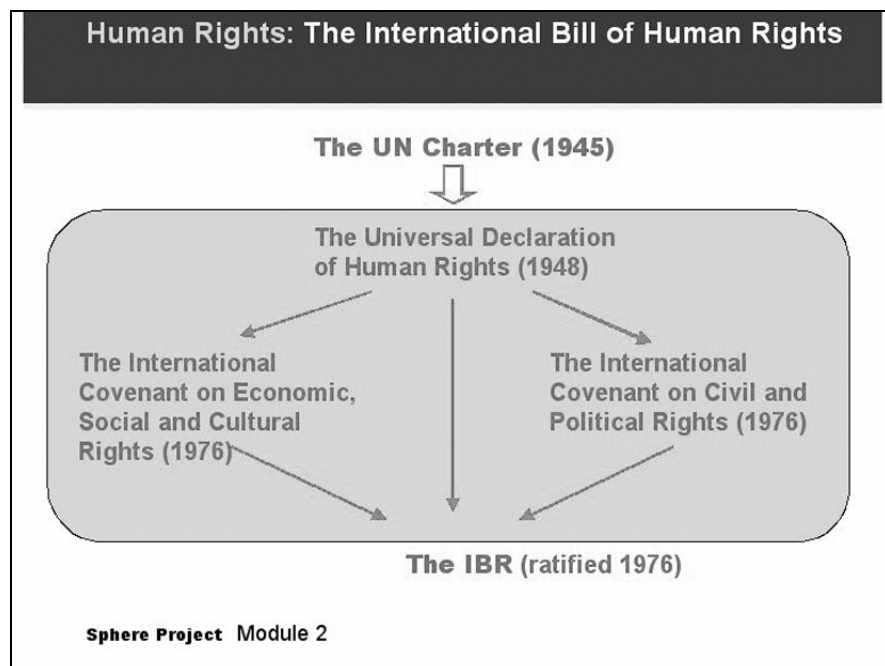
☐ Show slide: 'Universal Declaration of Human Rights'

**Explain that:**

- although this document is a declaration and not legally binding, it is important to emphasise the UDHR's place in international law
- it is often called the 'mother document'
- this is because it informs many other covenants and conventions on human rights
- it outlines some fundamental principles of the law, including equality and non-discrimination and civil society's responsibility to maintain the social and international order.

 Allow 2 minutes.

☐ Show slide: 'Human Rights: The International Bill of Rights'



**Explain that the International Bill of Rights integrates the following:**

- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- the International Covenant on Economic and Cultural Rights

**Explain that:**

- the preambles of both covenants recall the obligation of States to promote human rights, and remind the individual of his or her responsibility to strive for the promotion and observance of those rights.

⌚ Allow 1 minute.

☐ Show slide: 'Additional Human Rights Treaties'

**Explain that:**

- here are some examples of the many conventions on human rights.

**Ask them:**

- 'Do you have experience of or work with a particular treaty?'
- 'Can you give examples?'

### **SUPPORTING INFORMATION**

These are the conventions on the slide:


Convention on the Prevention and Punishment of the Crime of Genocide (1948)

International convention on the Elimination of All Forms of Racial Discrimination (1965)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Convention on the Elimination of All Forms of Discrimination Against Women (1979)

Convention on the Rights of the Child (1989)

 Allow up to 3 minutes.

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## **Activity 4: Conclusion**

### **5 mins**

#### **Ask them to:**

- work in the same teams as earlier (during activity 2).

#### **Give each team one of the following terms:**

- citizenship
- principles
- human rights
- duty
- civil society
- states.

#### **Ask them in turn to:**

- speak about the concept for no more than 60 seconds.

## Module 2 Session 2

### Glossary of Legal Terms

Handout (4 pages)

#### General terms:

The **LAW** is a system of rules that determine social relations, providing a method of settling disputes authoritatively. **LAWS** are rules of conduct or action prescribed or formally recognised as binding or enforceable by a controlling authority.

The **RULE OF LAW** is the requirement that the state provides legal guarantees for rights which uphold the dignity of the individual.

**NEEDS** are the things (material, emotional or spiritual) that one must have in order to have a satisfactory life. *Housing, health and food security are basic needs*

A **RIGHT** is the claim which a person has, to be treated in a fair, morally acceptable or legal way, or to have the things that are necessary for life. In a wider sense, rights include claims, liberties, privileges and powers.

**HUMAN DIGNITY** implies the capacity of making one's own deliberate choices and consequently being acknowledged as a free subject. It reflects the integrity of the person and is stated as being the source from which all human rights derive.

**HUMAN RIGHTS** are those rights that every human being possesses and is entitled to enjoy simply by virtue of being human. They identify the minimum conditions for living with dignity that apply to all of us.

**DEMOCRACY** can be defined as a form of government based on the respect of all human beings, which encourages dialogue and requires participation of the people at all levels of civil society. In contemporary political theory it is often characterised by the independence of the executive body, the legislative body and the judiciary body, as well as free elections.

The term **CIVIL SOCIETY** is usually used to refer to societies that have a rich fabric of non-governmental associations, networks and other bodies that stand between the private world of individuals and the public world of the state. Through civil society structures wider personal beliefs, values and ideas are transmitted into the public institutions.

**CITIZENSHIP** is determined by membership in a community of shared law within a particular territory. Nowadays, there are generally four basic ways to become a citizen of a state, depending on the laws of the particular state:

- *being born* within the boundaries of the state
- *having a citizen as a parent*
- *marrying a citizen*
- *naturalisation*, the act of giving an alien, or foreigner, citizenship.

Citizenship determines the rights and obligations of a particular individual in relation to a particular state.

**GENDER** refers to the roles and attributes given to women and men in a particular culture or society. These roles and attributes are not innate; they are socially constructed. As such, they can change over time and vary across cultures and societies. By contrast **SEX** refers to characteristics defined by one's sex. These are biological and generally difficult to change.

**GENDER ROLES** are the roles given to women and men in a particular culture or society.

**GENDER RELATIONS** refer to social relations between women and men. They find their roots in society and are influenced by religion, class, caste, ethnicity and nationality. Gender relations are not fixed. In general, they are about power relations between women and men.

## Humanitarian terms:

**ACCOUNTABILITY** - The ability of humanitarian agencies to demonstrate that their programmes comply with agreed and transparent norms, as well as clear objectives and explanation of results achieved with reference to contextual factors.

**PRINCIPLES** are those rules, values or standards that inform human behaviour and action. Legal principles inform the content, procedures and institutions of a given body of law.

**HUMANITY** – This principle of humanitarian action aims to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and well-being and to ensure respect for the human being.

**NEUTRALITY** – Traditionally humanitarian agencies have been seen as strictly non-political, and free from taking sides in a conflict or under influence from donor political priorities. This principle of humanitarian action is key to gaining trust and therefore access to populations in danger.

**IMPARTIALITY** – According to this principle of humanitarian assistance must be given to all sides in the conflict regardless of age, gender, creed, nationality or any distinction of any kind.

**PROTECTION** - All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law.

**DISCRIMINATION** is the act or practice of giving different treatment to individuals or groups on the basis of assumptions, stereotypes or prejudices.

**EQUALITY** is the principle that states that all human beings are equal before the law, entitled to rights and subject to obligations. In humanitarian practice it means that all human beings are equally entitled to, and deserving of, humanitarian assistance.

**UNIVERSALITY** – Human rights are said to be universal meaning that they are the rights of every human being, of all peoples, everywhere.

## Legal terms:

**TREATY** (also called **CONVENTION** or **COVENANT**) is a formal agreement signed by two (bilateral) or more (multilateral) governments. They create legal obligations and rights among the states which are party to the treaty. Sometimes they may create rights in favour of individuals while creating obligations with which states must comply. Countries are supposed to adopt internal legislation and policies to implement applicable human rights standards.

**PROTOCOL** is an agreement that completes an international treaty or convention, and which has the same legal force as the initial document.

**RATIFICATION** is the formal approval of a treaty, convention or other document by a competent body. It secures a state's commitment to the specific legal instrument.

**CUSTOMARY LAW** is one of the principal sources or components of international humanitarian law (IHL). It results from a general and consistent practice of States that is followed by them from a sense of legal obligation. The most obvious sense of a norm – a principle or a rule – of customary character is that it binds states that are not party to the treaty in which the norm is restated.

**NATIONAL SOVEREIGNTY** has two main components: a) **territorial sovereignty** (the state's exclusive control over its physical domain); and b) **personal sovereignty** (exclusive control over its own subjects or citizens, within or outside his domain).

**UNIVERSAL JURISDICTION** – Jurisdiction is the authority of an official organisation, for example a Court of Justice to make and deal with [legal] decisions. The most common basis of jurisdiction is *territorial* (that is, the courts of the place where action took place), but some legal systems also recognise jurisdiction based on nationality.

International law also permits a state, in some circumstances, to exercise criminal jurisdiction on other bases. In some cases, *the courts of any State may try an individual*. This is called *universal jurisdiction*. In October 1998, General Pinochet, the former Chilean dictator, was arrested by British authorities at the request of a Spanish prosecutor. Only the most serious offences are subject to universal jurisdiction. These include serious violations of the laws of war, crimes against humanity, torture, genocide and violations of Article 3 common to the Geneva Conventions.

**IMPUNITY** - In the absence of effective international enforcement mechanisms for the international human rights framework, violators of human rights and international humanitarian law can act without fear of punishment.

**INTERNATIONAL LAW** is the body of rules that regulates conduct between states.

**INTERNATIONAL HUMAN RIGHTS LAW** - any law that can be used to promote or protect human rights. It is primarily found in three forms:

- a) in *state constitutions*
- b) in *treaties* between states
- c) in *international customary law*.

The basic sources of International Human Rights Law are the United Nations Charter and the International Bill of Rights.

The **INTERNATIONAL BILL OF RIGHTS** includes the *Universal Declaration of Human Rights* and the *International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights*.

**INTERNATIONAL HUMANITARIAN LAW** is the body of laws and principles that govern the ways in which war is waged. It also seeks to save the lives and alleviate suffering of combatants and non-combatants during armed conflict. Its principal legal documents are the Geneva Conventions of 1949 and its Additional Protocols.

The **PRINCIPLE OF PROPORTIONALITY** is embedded in almost every national legal system and underlies the international legal order. By virtue of this principle, International Humanitarian Law prohibits attacks if they cause incidental loss of civilian life, injury to civilians, or damage to civilian objects that is excessive in relation to the military advantage anticipated.

**WAR CRIMES** are those violations of the laws of war – or international humanitarian law (IHL) – which incur individual criminal responsibility.

**GENOCIDE** is a crime under international law whether committed in time of peace or war. The 1948 Genocide Convention defines it as “*any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:*

- killing members of the group
- causing serious bodily or mental harm to members of the group
- deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- imposing measures intended to prevent births within the group
- forcibly transferring children of the group to another group”.

**REFUGEES** are people who have left their homeland because they fear that they will lose their lives or their freedom if they stay”. Unlike internally displaced persons (who remain within their own national boundaries), refugees are forced to flee across an international border. Protected by the Refugee Convention of 1951.

The **PRINCIPLE OF NON REFOULEMENT**. In International Refugee Law, states’ paramount obligation to refugees concerns the principle of *non-refoulement*. Accordingly, states may not forcibly return refugees to a territory where their life or freedom would be threatened.

A **INTERNALLY DISPLACED PERSON** is somebody who has fled their home because of an armed conflict, internal disturbance or natural disaster, but has not crossed the border of the nation in which they reside.

**DECLARATION** is a formal document signed by governments expressing their agreement with given aims, objectives and principles. Its content constitutes a moral obligation, but it is not legally binding.



## Module 2: Session 2

# THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948)

### Handout (2 pages)

(Excerpts, see [www.un.org](http://www.un.org) for the full text)

**On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights.**

#### **PREAMBLE**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore **THE GENERAL ASSEMBLY** proclaims **THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

## ARTICLES OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

- Article 1.** All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
- Article 2.** All the following rights should be applied without discrimination on basis of "race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
- Article 3.** The right to life, liberty and security of person.
- Article 4.** The right to freedom from slavery.
- Article 5.** The right to freedom from torture or to cruel, inhuman or degrading treatment or punishment.
- Article 6.** The right to recognition everywhere as a person before the law.
- Article 7.** The right to equal treatment before the law.
- Article 8.** The right to an effective legal remedy for rights violations.
- Article 9.** The right to freedom from arbitrary arrest, detention or exile.
- Article 10.** The right to a fair trial.
- Article 11.** The right to presumption of innocence until proven guilty.
- Article 12.** The right to privacy and freedom from upon honor and reputation.
- Article 13.** The right to freedom of movement, to leave any country, and to return to one's country.
- Article 14.** The right to asylum from persecution.
- Article 15.** The right to a nationality.
- Article 16.** The right to marry and to found a family.
- Article 17.** The right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.
- Article 18.** The right to freedom of thought, conscience and religion.
- Article 19.** The right to freedom of opinion and expression.
- Article 20.** The right to freedom of peaceful assembly and association.
- Article 21.** The right to take part in the government of one's country.
- Article 22.** The right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
- Article 23.** The right to work, and to just conditions of work and to equal pay for equal work.
- Article 24.** The right to rest and leisure.
- Article 25.** The right to a standard of living adequate for the health and well-being of oneself and of one's family, including food, clothing, housing and medical care.
- Article 26.** The right to education.
- Article 27.** The right freely to participate in the cultural life of the community.
- Article 28.** Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized.
- Article 29.** Everyone has duties to the community in which alone the free and full development of his personality is possible.

## Module 2: Session 2

# A Summary of United Nations Agreements on Human Rights Handout (4 pages)

## Contents

- Universal Declaration of Human Rights
- Covenant on Civil and Political Rights
- Optional Protocol to the Covenant on Civil and Political Rights
- Covenant on Economic, Social, and Cultural Rights
- Convention Against Torture
- Convention Against Genocide
- The Geneva Conventions
- Convention on the Rights of the Child
- Convention on Elimination of Discrimination Against Women
- Charter of the United Nations

## Universal Declaration of Human Rights

The UDHR is the first international statement to use the term "human rights", and has been adopted by the Human Rights movement as a charter. It is short, and worth reading in its entirety -- a summary would be about as long as the document itself.

## Covenant on Civil and Political Rights

**This covenant details the basic civil and political rights of individuals and nations. Among the rights of nations are:**

- the right to self determination
- the right to own, trade, and dispose of their property freely, and not be deprived of their means of subsistence.

**Among the rights of individuals are:**

- the right to legal recourse when their rights have been violated, even if the violator was acting in an official capacity
- the right to life
- the right to liberty and freedom of movement
- the right to equality before the law
- the right to presumption of innocence til proven guilty
- the right to appeal a conviction
- the right to be recognized as a person before the law
- the right to privacy and protection of that privacy by law
- freedom of thought, conscience, and religion
- freedom of opinion and expression
- freedom of assembly and association

- The covenant forbids torture and inhuman or degrading treatment, slavery or involuntary servitude, arbitrary arrest and detention, and debtor's prisons. It forbids propaganda advocating either war or hatred based on race, religion, national origin, or language.
- It provides for the right of people to choose freely whom they will marry and to found a family, and requires that the duties and obligations of marriage and family be shared equally between partners. It guarantees the rights of children and prohibits discrimination based on race, sex, color, national origin, or language.
- It also restricts the death penalty to the most serious of crimes, guarantees condemned people the right to appeal for commutation to a lesser penalty, and forbids the death penalty entirely for people under 18 years of age.
- The covenant permits governments to temporarily suspend some of these rights in cases of civil emergency only, and lists those rights which cannot be suspended for any reason. It also establishes the UN Human Rights Commission.
- After almost two decades of negotiations and rewriting, the text of the Universal Covenant on Civil and Political Rights was agreed upon in 1966. In 1976, after being ratified by the required 35 states, it became international law.

### Optional Protocol to the Covenant on Civil and Political Rights

**The protocol adds legal force to the Covenant on Civil and Political Rights by allowing the Human Rights Commission to investigate and judge complaints of human rights violations from individuals from signator countries.**

### Covenant on Economic, Social, and Cultural Rights

**This covenant describes the basic economic, social, and cultural rights of individuals and nations, including the right to:**

- self-determination
- wages sufficient to support a minimum standard of living
- equal pay for equal work
- equal opportunity for advancement
- form trade unions
- strike
- paid or otherwise compensated maternity leave
- free primary education, and accessible education at all levels
- copyright, patent, and trademark protection for intellectual property
- In addition, this convention forbids exploitation of children, and requires all nations to cooperate to end world hunger. Each nation which has ratified this covenant is required to submit annual reports on its progress in providing for these rights to the Secretary General, who is to transmit them to the Economic and Social Council.

**The text of this covenant was finalized in 1966 along with that of the Covenant on Civil and Political Rights, but has not been ratified yet.**

## Convention against Genocide

- This convention bans acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group. It declares genocide a crime under international law whether committed during war or peacetime, and binds all signatories of the convention to take measures to prevent and punish any acts of genocide committed within their jurisdiction. The act bans killing of members of any racial, ethnic, national or religious group because of their membership in that group, causing serious bodily or mental harm to members of the group, inflicting on members of the group conditions of life intended to destroy them, imposing measures intended to prevent births within the group, and taking group members' children away from them and giving them to members of another group.
- It declares genocide itself, conspiracy or incitement to commit genocide, attempts to commit or complicity in the commission of genocide all to be illegal. Individuals are to be held responsible for these acts whether they were acting in their official capacities or as private individuals. Signatories to the convention are bound to enact appropriate legislation to make the acts named in Article 3 illegal under their national law and provide appropriate penalties for violators.
- People suspected of acts of genocide may be tried by a national tribunal in the territory where the acts were committed or by a properly constituted international tribunal whose jurisdiction is recognized by the state or states involved. For purposes of extradition, an allegation of genocide is not to be considered a political crime, and states are bound to extradite suspects in accordance with national laws and treaties. Any state party to the Convention may also call upon the United Nations to act to prevent or punish acts of genocide.
- The remainder of the Convention specifies procedures for resolving disputes between nations about whether a specific act or acts constitute(s) genocide, and gives procedures for ratification of the convention.

## Convention against Torture

- This convention bans torture under all circumstances and establishes the UN Committee against Torture. In particular, it defines torture, requires states to take effective legal and other measures to prevent torture, declares that no state of emergency, other external threats, nor orders from a superior officer or authority may be invoked to justify torture. It forbids countries to return a refugee to his country if there is reason to believe he/she will be tortured, and requires host countries to consider the human rights record of the person's native country in making this decision.
- The CAT requires states to make torture illegal and provide appropriate punishment for those who commit torture. It requires states to assert jurisdiction when torture is committed within their jurisdiction, either investigate and prosecute themselves, or upon proper request extradite suspects to face trial before another competent court. It also requires states to cooperate with any civil proceedings against accused torturers.
- Each state is obliged to provide training to law enforcement and military on torture prevention, keep its interrogation methods under review, and promptly investigate any allegations that its officials have committed torture in the course of their official duties. It must ensure that individuals who allege that someone has committed torture against them are permitted to make an official complaint and have it investigated, and, if the complaint is proven, receive compensation, including full medical treatment and payments to survivors if the victim dies as a result of torture. It forbids states to admit into evidence during a trial any

confession or statement made during or as a result of torture. It also forbids activities which do not rise to the level of torture, but which constitute cruel or degrading treatment.

- The second part of the Convention establishes the Committee Against Torture, and sets out the rules on its membership and activities.
- The Convention was passed and opened for ratification in February, 1985. At that time twenty nations signed, and five more signed within the month. At present sixty five nations have ratified the Convention against torture and sixteen more have signed but not yet ratified it.

### Convention on Elimination of Discrimination Against Women

- This convention bans discrimination against women. The copy of the Convention on Women presently accessible through this page is a fully- indexed HTML document.
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### Convention on the Rights of the Child

- This convention bans discrimination against children and provides for special protection and rights appropriate to minors. The copy of the Convention on the Rights of the Child presently accessible through this page is a fully-indexed HTML document.
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### Charter of the United Nations

- The Charter of the United Nations contains some important human rights provisions, in addition to containing the framework for the organization as a whole. This is a fully indexed HTML version of the charter.

## Module 2

### Session 3: The International legal framework

#### Overview

#### At the end of this session participants will be able to:

- identify the sources of Principle 1 of the Humanitarian Charter 'the right to life with dignity'
- describe the basic concepts of human rights and dignity
- describe legal and moral duties and obligations in relation to human rights
- examine the universality of human rights and values.

#### Main messages

- The Humanitarian Charter has three principles, based in international law, that infer roles and responsibilities on duty bearers.
- Human rights are universal, enshrined in international human rights law, and impose duties on states. Human rights also imply a moral obligation for civil society.
- Principle 1 of the Humanitarian Charter, 'the right to life with dignity' describes one of the prime motivations for humanitarian action.

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**Timing** ⌚ Approximately 90 minutes, depending on the experience of the group.

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**Method** Presentation / Pair exercise / Group discussion

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**Resources needed** Laptop / data projector / screen / flipchart and pens

**Visual aid** PowerPoint slides

#### Preparation

**Handout:** Excerpts from the Geneva Conventions (1949)

**Handout:** Articles of the Geneva Conventions and Additional Protocols Relating to Civilian Relief (non-medical)

**Handout:** Sources for the Humanitarian Charter

**Handout:** Excerpts from The Refugee Convention (1951)

The Guiding Principles for IDPs (leaflet available from OCHA or download from the web)

- Photocopy each of the handouts for distribution to all participants.
- Familiarise yourself with the Humanitarian Charter section of the Sphere handbook.
- Prepare for the PowerPoints as described in Part 1: section E: Trainers' Guide.

## Session 3: The International Legal Framework

Time	Activity
<b>5</b>	1: Introduction
<b>20</b>	2: Pair work (IHL)
<b>20</b>	3: Presentation (IHL)
<b>20</b>	4: Pair work (Refugee law and General Principles for IDPs)
<b>20</b>	5: Presentation (Refugee law and General Principles for IDPs)
<b>5</b>	6: Conclusions
<b>90</b>	<b>TOTAL TIME</b>

You can find copies of all the slides in this Module in the PowerPoint section at the back of Part 1: Trainers' Guide.

### Activity 1: Introduction

**5 mins**

☐ Show slides: 'Session 3: The International Legal framework' and 'Learning objectives'

#### Explain the objectives for the session:

- to identify the source in the Humanitarian Charter of Principle 2 'the distinction between combatants and non-combatants' and Principle 3 'the right to non-refoulement'
- to describe the basic principles and scope of International Humanitarian Law
- to describe legal duties and obligations of states in relation to protecting civilians and providing assistance
- to examine the law in relation to the status of refugees and IDPs.

#### Explain that:

- the first principle of the Humanitarian Charter 'the right to life with dignity' was explored in session 2
- session 3 aims to explore the second and third principles.

### Activity 2: Pair work (IHL)

**20 mins**

#### Ask them to:

- work in pairs
- imagine that they are back in the place where they grew up.

#### Ask them to:

- imagine now that their home is under attack from an aggressive force.



**Participants may ask for details of the conflict, for example, whether it is an international or internal conflict. If so, explain that this is not important as the aim of the exercise is purely theoretical.**

**Ask them to:**

- discuss with their partner two guarantees they would want from an aggressive force.

**It may help to give an example such as: 'access to prisoners'.**

⌚ Allow up to 5 minutes.

**Call the group back together.**

**Ask the group for their ideas, and record answers on a flipchart. If the same guarantees are mentioned more than once, tick the item on the flipchart.**

⌚ Allow up to 5 minutes to take feedback.

**Give out the following handouts to each participant:**

- Handout: 'The Geneva Conventions (1949) - excerpts'
- Handout: 'Articles relating to the Provision of Civilian Relief.'
- Handout: 'Sources for the Humanitarian Charter'

**Ask them to:**

- read 'The Geneva Conventions (1949) - excerpts'
- read 'Sources for the Humanitarian Charter'

⌚ Allow up to 5 minutes.

**Ask them:**

- how do you feel about the language in the articles?
- do you see any of the guarantees you identified reflected in these documents?

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## Activity 3: Presentation (IHL)

**20 mins**

☐ Show slide 'The distinction between combatants and non-combatants...'

**Ask a participant to read the slide out:**

- "Non-combatants are protected under International Humanitarian Law and are entitled to immunity from attack".

**Explain that:**

- this is the second principle from the Humanitarian Charter and means that civilians are entitled to protection in times of conflict.

⌚ Allow up to 2 minutes.

☐ Show slide 'Two types of law'.

**Explain that:**

- the Law of the Hague focuses on regulating the conduct of hostilities

- the Law of Geneva protects people who are not taking part in hostilities, for example civilians, or those who are no longer taking part, such as prisoners and wounded soldiers
- the two laws address both military and humanitarian considerations.

⌚ Allow up to 3 minutes.

☐ Show slide 'The Geneva Conventions of 1949'

**Explain that:**

- there are four Geneva conventions
- First Convention - on the care of the wounded and sick members of armed forces in the field
- Second Convention - on the care of the wounded, sick and shipwrecked members of armed forces at sea
- Third Convention - on the conduct of combatants and the treatment of prisoners of war (between states)
- Fourth Convention - on the protection of civilian persons and populations in times of war (duties and responsibilities of occupying power).

⌚ Allow up to 3 minutes.

☐ Show slide 'Application of The Geneva Conventions'

**Explain that:**

- the Geneva Conventions are international law
- they came out of the experience of armed conflict in the 1850s (Henri Dunant, founder of the Red Cross movement, at the Battle of Solferino)
- they were finalised after WWII
- the Geneva Conventions are addressed to states and warring parties, and lay down the conditions for humanitarian action (humanity, impartiality and independence).

⌚ Allow up to 2 minutes.

☐ Show slide 'Internal armed conflict'

**Explain that:**

- internal conflicts have highlighted the importance of protecting civilians
- article 3 is common to the four Geneva conventions and seeks to protect people who are not participating in a conflict.

**SUPPORTING INFORMATION**

This is the text on the slide.

Article 3, common to the four Geneva Conventions refers to *internal* armed conflicts - "*a mini Convention*"

In 1977, Protocol II, relating to the Protection of Victims of Non-International Armed Conflicts, was developed to further Common Article 3.

⌚ Allow up to 2 minutes.


**Explain that:**

- the Geneva Conventions also provide conditions for humanitarian assistance
- they describe the roles and responsibilities for the parties involved

☐ Show slide 'Geneva Convention IV'.

**Explain that:**

- this demonstrates that humanitarian action should not be impeded
- it provides the legal context in which humanitarians work.

 Allow up to 2 minutes.

**SUPPORTING INFORMATION**

This is the text on the slide.

Article 10 (Geneva Convention IV 1949)

General Provision

"The provisions of the present Convention present no obstacle to the humanitarian activities which the International Red Cross or any other **impartial humanitarian organisation** may, **subject to the consent** of the High Contracting Parties to the conflict concerned, undertake for the protection of civilian persons and their relief".

☐ Show slide 'Additional Protocol II'

**SUPPORTING INFORMATION**

This is the text on the slide.

Article 18 (Additional Protocol II 1977)

Relief Societies and Relief Actions

"If the civilian population is suffering undue hardship owing to a lack of supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively **humanitarian and impartial nature** and which are **conducted without any adverse distinction** shall be undertaken subject to the consent of the High Contracting party concerned".

**Explain that:**

- Additional Protocol II, as well as common article 3, addresses internal conflict
- it provides further articles relating to relief activities in times of conflict
- it came into being in 1977 as the number of internal conflicts increased.

## Activity 4: Pairs work (Refugee law and the GPs for IDPs)

### 20 mins

**Ask them to:**

- work in the same pairs as before

**Ask them to:**

- imagine that the conflict in their home place has intensified
- they have been forced to flee and are now en route to a new place
- all their belongings are in bags

**Ask them to:**

- discuss with their neighbour one or two guarantees they would want

**Note to trainer:**

If the subject is raised, participants may decide whether or not they have crossed an international state border. The *process* of fleeing is what is important. Later in the session it will be important to draw the distinction between:

- refugees, who have crossed an international state border
- Internally Displaced People (IDPs) who have not crossed an international state border.

An example of a guarantee might be 'safe passage across the border'.

⌚ Allow up to 5 minutes.

**Call the group back together.****Ask the group for their ideas, and record their answers on a flipchart.**

**If the same guarantees are mentioned more than once, tick the item on the flipchart.**

⌚ Allow up to 5 minutes.

**Give out the following materials to each participant:**

- Handout: 'Excerpts from The Refugee Convention (1951)'
- The Guiding Principles for IDPs (leaflet available from OCHA or download from the web: [www.reliefweb.int/ocha](http://www.reliefweb.int/ocha)).

**Ask them to:**

- read the handout 'Excerpts from The Refugee Convention (1951)'
- read from the IDP Guiding Principles either Section I – General Principles, or Section III – Principles Relating to Protection during Displacement.

⌚ Allow up to 5 minutes.

**Ask them:**

- if they can see rights or guarantees from the flipchart reflected in the documents
- for any comments regarding the rights of refugees and the rights of IDPs.

**Explain that:**

- the Guiding Principles, although not a legal document, are all principles taken from international law
- in fact, some states such as Angola have incorporated the Guiding Principles into national legislation.

## Activity 5: Presentation (Refugee law and the Guiding Principles for IDPs) 20 mins

☐ Show slide 'International Refugee Law'

### Explain that:

- this is the last 'pillar' of the international legal framework used in the Humanitarian Charter

⌚ Allow up to 2 minutes.

☐ Show slide 'The principle of non-refoulement'

### Ask a participant to read the slide aloud.

#### SUPPORTING INFORMATION

This text appears on the slide

"No refugee shall be sent back to a country in which his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion; or where there are substantial grounds for believing that s/he would be in danger of being subjected to torture"

Article 33 The Convention on the Status of Refugees 1951

### Explain that:

- this is the third principle of the Humanitarian Charter and it is based in international refugee law

⌚ Allow up to 2 minutes.

☐ Show slide 'Refugee Law'

### Explain that:

- all these conventions are part of the body of law on refugees

### Ask if anyone has any experience of the different conventions.

#### SUPPORTING INFORMATION

This text appears on the slide

#### Refugee Law

- 1951 Convention on the Status of Refugees
- 1967 Protocol on the Status of Refugees
- 1969 OAU (Organisation of African Unity) Convention
- 1984 Convention Preventing Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- 1984 Cartagena Declaration
- UNHCR Executive Committee Conclusions

⌚ Allow up to 5 minutes.

☐ Show slide 'Who is a refugee?'

**Explain that:**

- in the terms of the 1951 Convention on the Status of Refugees a refugee is someone who meets the following conditions
- they are outside their country of origin
- they have a well founded fear of prosecution because of their race, religion, nationality, membership in a particular social group or political opinion
- they are unwilling to avail themselves of the protection of that country, or to return there, for fear of persecution.

**Explain that:**

- later conventions and protocols have broadened the definition, as the 1951 definition put the onus on the *individual* to prove they were *personally* in fear of persecution.

⌚ Allow up to 3 minutes.

☐ Show slide 'Who is a displaced person?'

**SUPPORTING INFORMATION**

This text appears on the slide

IDP Guidelines (Francis Deng 1998)

IDPs are defined as those persons forced or obliged to flee from their homes, "...in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an international recognised State border"

**Explain that:**


- this is the definition of IDPs
- it is not a legal definition in the same sense as is the definition of refugees
- however the guiding principles are all drawn from legal sources during Francis Deng's work on a "Compilation and Analysis of legal Norms" (E/CN.4/1996/52/Add.2)
- interestingly, this definition also includes natural or human made disasters, unlike the Refugee Convention of 1951.

**SUPPORTING INFORMATION**

IDPs are displaced persons who have remained within their own national borders, whereas refugees are, by definition, living in a country not their own. State sovereignty history is relevant because international law governs relations *between states*. IDPs who have not crossed state lines have not traditionally been entitled to the same forms of protection. Refugees, however, are protected through a convention. The 1951 Convention aims to protect refugees from violations that might be committed in or by the state to which they have migrated. Non refoulement is one of the core protections in the 1951 convention. It protects refugees from being forcibly returned to their country of origin if their life or freedom would be threatened.

**NOTE that moral obligations and duties go both ways. Refugees have an obligation to follow the laws in the country where they have sought refuge, and an obligation to pay taxes in that country. It is also interesting to note that in 1969 the Organisation of African Unity (OAU) formed a refugee convention which provides greater measures of protection for refugees in Africa than the 1951 convention,**

The IDP Guidelines were developed in 1998 by the UN Office For Coordination of Humanitarian Affairs. They aren't a convention or declaration, but they do collate from other human rights and humanitarian law sources what the protections are for IDPs and are a very useful guide.

 Allow up to 2 minutes.

☐ Show slide 'Enforcement mechanisms'.

**Explain that:**

- these are examples of mechanisms for the enforcement of international law
  - National Courts
  - Ad hoc Tribunals
  - International Court of Justice
  - International Criminal Court
  - Sanctions
  - UN Security Resolutions

**Ask participants if they have experience of any other enforcement mechanisms.**

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## Activity 5: Conclusion

**5 mins**

☐ Show slide: 'The Main Legal Instruments'.

## The main legal instruments

	<b>Human Rights</b>	<b>Humanitarian Law</b>	<b>Refugee Law</b>
<b>Example of documentary source</b>	The International Bill of Rights	The Geneva Convention	The Convention on the Status of Refugees
<b>Core ideas</b>	The right to life with dignity	Distinction between combatants and non-combatants	Principle of non-refoulement
<b>Who has rights?</b>	Everyone	Non-combatants in conflict	Refugees, but not IDPs
<b>Who has duties?</b>	States (legally) but everyone (morally)	Warring parties	States where refugees reside
<b>When do they apply?</b>	Most apply always, some don't in states of emergency	In armed conflicts only	Wherever refugees exist

Sphere Project Module 2

**This slide builds item by item, row by row.**

**As you build the slide, use it as a wrap-up quiz:**

- ask them what comes next
- click to reveal the answer
- keep a bag of sweets (or similar) to reward participants!

**Explain that:**

- this slide shows the core ideas behind the three sets of international legal instruments that inform the Humanitarian Charter
  - International Human Rights
  - International Humanitarian Law
  - International Refugee Law.

**Ask them if there are any questions.**

**Encourage the group to read further around the subject, reminding them that:**

- many of the legal documents are very readable
- we have a duty to familiarise ourselves with some of the basic concepts
- the legal system can provide an excellent framework to convince parties of the validity of humanitarian work.



## Module 2: Session 3

### Handout (2 pages)

## The Geneva Conventions 1949

Excerpts from the ICRC website [www.icrc.org](http://www.icrc.org)

<b>First Convention</b>	on the care of the wounded and sick members of armed forces in the field.
<b>Second Convention</b>	on the care of the wounded, sick and shipwrecked members of armed forces at sea.
<b>Third Convention</b>	on the conduct of combatants and the treatment of prisoners of war [between states].
<b>Fourth Convention</b>	on the protection of civilian persons and populations in times of war [duties and responsibilities of occupying power] of the wounded and sick members of armed forces in the field.

## Article 3 common to the four Geneva Conventions 1949

**In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:**

**(1)** Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples.

**(2)** The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

## Summary

### Basic rules of International Humanitarian Law in armed conflicts

1. Persons who do not or can no longer take part in the hostilities are entitled to respect for their life and for their physical and mental integrity. Such persons must in all circumstances be protected and treated with humanity, without any unfavourable distinction whatever.
2. It is forbidden to kill or wound an adversary who surrenders or who can no longer take part in the fighting.
3. The wounded and sick must be collected and cared for by the party to the conflict which has them in its power. Medical personnel and medical establishments, transports and equipment must be spared. The red cross or red crescent on a white background is the sign protecting such persons and objects and must be respected.
4. Captured combatants and civilians who find themselves under the authority of the adverse party are entitled to respect for their life, their dignity, their personal rights and their political, religious and other convictions. They must be protected against all acts of violence or reprisal. They are entitled to exchange news with their families and receive aid.
5. Everyone must enjoy basic judicial guarantees and no one may be held responsible for an act he has not committed. No one may be subjected to physical or mental torture or to cruel or degrading corporal punishment or other treatment.
6. Neither the parties to the conflict nor members of their armed forces have an unlimited right to choose methods and means of warfare. It is forbidden to use weapons or methods of warfare that are likely to cause unnecessary losses or excessive suffering.

The parties to a conflict must at all times distinguish between the civilian population and combatants in order to spare the civilian population and civilian property. Neither the civilian population as a whole nor individual civilians may be attacked. Attacks may be made solely against military objectives.

## Module 2: Session 3

### Articles of the Geneva Conventions and Additional Protocols Relating to Civilian Relief (non-medical)

Handout (5 pages)

#### Geneva Convention IV relative to the Protection of Civilian Persons in Time of War.

from [www.icrc.org](http://www.icrc.org)

##### **Article 10**

##### **General provision**

"The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organisation may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief."

##### **Article 23**

##### **Free passage of certain relief items**

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination,
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may give permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed."

## Protected Persons

### Article 30

#### Relief organisations 'shall be granted all facilities' by the authorities

- Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organisation that might assist them.

These several organisations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate as much as possible visits to protected persons by the representatives of other organisations whose object is to give spiritual aid or material relief to such persons."

### Article 38

#### 'Shall be enabled to receive' relief sent to them:

With the exception of special measures authorised by the present Convention, in particular by Articles 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

- (1) They shall be enabled to receive the individual or collective relief that may be sent to them.
- (2) They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
- (3) They shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
- (4) If they reside in an area particularly exposed to the dangers of war, they shall be authorised to move from that area to the same extent as the nationals of the State concerned.
- (5) Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned."

### Article 59

#### Collective relief: relief schemes shall be agreed to and facilitated if population is in need

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power."

### Article 60

#### Status and treatment of protected persons:

“Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.”

### **Article 61**

#### **Status and treatment of protected persons:**

The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the co-operation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.

All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.”

### **Article 62**

#### **Individual relief**

“Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.”

### **Article 63**

#### **Relief societies shall be able to pursue activities in accordance with Red Cross principles**

Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

(a) recognised National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;

(b) the Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organisation of rescues.

## **Additional Protocol I**

### **Article 68**

#### **Field of application**

“The provisions of this Section apply to the civilian population as defined in this Protocol and are supplementary to Articles 23, 55, 59, 60, 61 and 62 and other relevant provisions of the Fourth Convention.”

### **Article 69**

#### **Basic needs in occupied territories**

1. In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.

2. Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth Convention, and by Article 71 of this Protocol, and shall be implemented without delay."

## **Article 70**

### **Relief actions**

1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.

2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.

3. The Parties to the conflict and each High Contracting Party which allow the passage of relief consignments, equipment and personnel in accordance with paragraph 2:

(a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;

(b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;

(c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1."

## **Article 71**

### **Protection of relief personnel**

1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments; the participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties.

2. Such personnel shall be respected and protected.

3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1 in carrying out their relief mission. Only in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted.

4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of the security requirements of the Party in whose territory they are carrying out their duties. The mission of any of the personnel who do not respect these conditions may be terminated."

#### **Article 81**

##### **Parties to the conflict shall facilitate the work of humanitarian organisations:**

1. The Parties to the conflict shall grant to the International Committee of the Red Cross all facilities within their power so as to enable it to carry out the humanitarian functions assigned to it by the Conventions and this Protocol in order to ensure protection and assistance to the victims of conflicts; the International Committee of the Red Cross may also carry out any other humanitarian activities in favour of these victims, subject to the consent of the Parties to the conflict concerned.

2. The Parties to the conflict shall grant to their respective Red Cross (Red Crescent, Red Lion and Sun) organisations the facilities necessary for carrying out their humanitarian activities in favour of the victims of the conflict, in accordance with the provisions of the Conventions and this Protocol and the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross.

3. The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the assistance which Red Cross (Red Crescent, Red Lion and Sun) organisations and the League of Red Cross Societies extend to the victims of conflicts in accordance with the provisions of the Conventions and this Protocol and with the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross.

4. The High Contracting Parties and the Parties to the conflict shall, as far as possible, make facilities similar to those mentioned in paragraphs 2 and 3 available to the other humanitarian organisations referred to in the Conventions and this Protocol which are duly authorised by the respective Parties to the conflict and which perform their humanitarian activities in accordance with the provisions of the Conventions and this Protocol."

## **Additional Protocol II**

#### **Article 18**

##### **Relief societies and relief actions**

1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organisations, may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the wounded, sick and shipwrecked.

2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned."

## Module 2: Session 3 – Sources for the Humanitarian Charter Handout (10 pages)

The Humanitarian Charter affirms the fundamental importance of the following principles:

### 1.1 The right to life with dignity

This right is reflected in the legal measures concerning the right to life, to an adequate standard of living and to freedom from cruel, inhuman or degrading treatment or punishment. We understand an individual's right to life to entail the right to have steps taken to preserve life where it is threatened, and a corresponding duty on others to take such steps. Implicit in this is the duty not to withhold or frustrate the provision of life-saving assistance. In addition, international humanitarian law makes specific provision for assistance to civilian populations during conflict, obliging states and other parties to agree to the provision of humanitarian and impartial assistance when the civilian population lacks essential supplies.<sup>1</sup>

## Universal Declaration of Human Rights 1948

### Article 3

Everyone has the right to life, liberty and security of person.

### Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## International Covenant on Civil and Political Rights 1966

### Article 6

#### General comment on its implementation

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.



4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

#### **Article 7**

##### **General comment on its implementation**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### **Common Article 3 of the four Geneva Conventions of 1949**

#### **Article 3**

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

### **Convention (IV) relative to the Protection of Civilian Persons in Time of War**

#### **Article 23**

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High

Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination,
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

#### **Article 55**

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

#### **Article 59**

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage

according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

## Protocol I Additional to the Geneva Conventions 1977

### Article 69

#### Basic needs in occupied territories

1. In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.

2. Relief actions for the benefit of the civilian population of occupied territories are governed by Articles 59, 60, 61, 62, 108, 109, 110 and 111 of the Fourth Convention, and by Article 71 of this Protocol, and shall be implemented without delay.

### Article 70

#### Relief actions

1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.

2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.

3. The Parties to the conflict and each High Contracting Party which allows the passage of relief consignments, equipment and personnel in accordance with paragraph 2:

- (a) shall have the right to prescribe the technical arrangements, including search, under which such passage is permitted;
- (b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;
- (c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.

**Article 71****Personnel participating in relief actions**

1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments; the participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties.
2. Such personnel shall be respected and protected.
3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1 in carrying out their relief mission. Only in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted.
4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of the security requirements of the Party in whose territory they are carrying out their duties. The mission of any of the personnel who do not respect these conditions may be terminated.

**Protocol II Protocol Additional to the Geneva 1977****Article 18****Relief societies and relief actions**

1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the wounded, sick and shipwrecked.
2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as food-stuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.

**International Covenant on Economic, Social and Cultural Rights  
1966****Article 10**

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young

persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

### **Article 11**

#### **General comment on its implementation**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. **General comment on its implementation**

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

- (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

### **Article 12**

#### **General comment on its implementation**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

## **Convention on the Rights of the Child 1989**

### **Article 6**

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

### **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries

#### Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

#### Also:

**Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

#### 1.2 The distinction between combatants and non-combatants

This is the distinction which underpins the 1949 Geneva Conventions and their Additional Protocols of 1977. This fundamental principle has been increasingly eroded, as reflected in the enormously

increased proportion of civilian casualties during the second half of the twentieth century. That internal conflict is often referred to as 'civil war' must not blind us to the need to distinguish between those actively engaged in hostilities, and civilians and others (including the sick, wounded and prisoners) who play no direct part. Non-combatants are protected under international humanitarian law and are entitled to immunity from attack.<sup>2</sup>

## Common Article 3 of the four Geneva Conventions 1949 Protocol I Additional to the Geneva Conventions 1977

### Article 48

#### Basic rule

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

## Convention on the Rights of the Child 1989

### Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

### 1.3 The principle of non-refoulement

This is the principle that no refugee shall be sent (back) to a country in which his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion; or where there are substantial grounds for believing that s/he would be in danger of being subjected to torture.<sup>3</sup>

## Convention on the Status of Refugees 1951

### Article 33

#### Prohibition of expulsion or return ("refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

## Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

### Article 3

#### General comment on its implementation

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

## Convention on the Rights of the Child 1989

### Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

### Notes

- 1) Articles 3 and 5 of the Universal Declaration of Human Rights 1948; Articles 6 and 7 of the International Covenant on Civil and Political Rights 1966; common Article 3 of the four Geneva Conventions of 1949; Articles 23, 55 and 59 of the Fourth Geneva Convention; Articles 69 to 71 of Additional Protocol I of 1977; Article 18 of Additional Protocol II of 1977 as well as other relevant rules of international humanitarian law; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984; Articles 10, 11 and 12 of the International Covenant on Economic, Social, and Cultural Rights 1966; Articles 6, 37, and 24 of the Convention on the Rights of the Child 1989; and elsewhere in international law.
- 2) The distinction between combatants and non-combatants is the basic principle underlying international humanitarian law. See in particular common Article 3 of the four Geneva Conventions of 1949 and Article 48 of Additional Protocol I of 1977. See also Article 38 of the Convention on the Rights of the Child.



- 3) Article 33 of the Convention on the Status of Refugees 1951; Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984; Article 22 of the Convention on the Rights of the Child 1989.

### **Sources**

The following instruments inform this Charter:

- Universal Declaration of Human Rights 1948.
- International Covenant on Civil and Political Rights 1966.
- International Covenant on Economic, Social and Cultural Rights 1966.
- The four Geneva Conventions of 1949 and their two Additional Protocols of 1977.
- Convention on the Status of Refugees 1951 and the Protocol relating to the Status of Refugees 1967.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984.
- Convention on the Prevention and Punishment of the Crime of Genocide 1948.
- Convention on the Rights of the Child 1989.
- Convention on the Elimination of All Forms of Discrimination Against Women 1979.
- Guiding Principles on Internal Displacement 1998.

## Module 2: Session 3

### Excerpts from The Convention on the Status of Refugees (1951)

Handout (3 pages)

see [www.unhcr.ch](http://www.unhcr.ch) for full text

#### PREAMBLE

##### The High Contracting Parties

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,...

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,...

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

**Have agreed as follows:**

#### ARTICLE 1. DEFINITION OF THE TERM "REFUGEE"

A refugee ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it...

...The provisions of this Convention **shall not apply** to any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

#### ARTICLE 2. GENERAL OBLIGATIONS

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

## ARTICLE 3. NON-DISCRIMINATION

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

## ARTICLE 15. RIGHT OF ASSOCIATION

As regards non-political and non-profit making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

## ARTICLE 16. ACCESS TO COURTS

A refugee shall have free access to the courts of law on the territory of all Contracting States.

## ARTICLE 17. WAGE-EARNING EMPLOYMENT

The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

## ARTICLE 21. HOUSING

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

## ARTICLE 22. PUBLIC EDUCATION

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

## ARTICLE 23. PUBLIC RELIEF

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

## ARTICLE 26. FREEDOM OF MOVEMENT

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

## ARTICLE 27. IDENTITY PAPERS

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

## ARTICLE 29. FISCAL CHARGES

The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

## ARTICLE 32. EXPULSION

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

## ARTICLE 33. PROHIBITION OF EXPULSION OR RETURN ("REFOULEMENT")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

## Module 2

### Session 4: Implications of the Humanitarian Charter Overview

#### Learning objectives

**At the end of the session, participants will be able to:**

- Describe implications for programme planning and design that arise from the Humanitarian Charter. Recognise the importance of human rights and 'dignity' as underpinning principles in humanitarian operations. Identify how their organisations' current activities may be improved to help people affected by disasters to achieve their human rights.

#### Main messages

- People affected by disasters are best placed to inform programme design to meet their basic needs.
- Most humanitarian agencies are already doing 'rights based' work in their current activities and projects.
- There are many different roles involved in a holistic approach to promoting human rights, for example, advocacy, witnessing, monitoring, educating and protection.
- The ICRC 'Protection Mapping Framework', is a useful tool to understand how these roles link together and support each other.
- The Sphere Humanitarian Charter and the Code of Conduct provide key principles that, when added to service delivery, help address root causes of a particular disaster.

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**Timing** ⌚ 90 minutes

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**Method** Facilitated discussion

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**Resources needed** Laptop / data projector / flipchart and pens / blank cards / Post-it notes / tape or blue-tack / PowerPoint presentation

#### Preparation

- Prepare six cards, each with one term written on it: Participation, Accountability, Non-discrimination, Empowerment, Law and Sustainability.

## Session 4: Implications of the Humanitarian Charter

Time	Activity
<b>15</b>	1: Introduction
<b>20</b>	2: Exercise on referencing the Humanitarian Charter
<b>25</b>	3: Exercise on the implications of rights for designing programmes/projects
<b>20</b>	4: Presentation on the ICRC Protection Mapping Tool
<b>10</b>	5: Conclusions
<b>90</b>	<b>TOTAL TIME</b>

You can find copies of all the slides in this Module in the PowerPoint section at the back of Part 1: Trainers' Guide

### Activity 1: Introduction

**15 mins**


☐ Show title slide: 'Session 4: Implications of the Humanitarian Charter'.

**Display this slide on screen while people are arriving.**

☐ Show slide: 'Learning objectives'

**Explain the objectives for the session:**

- Describe implications for programme planning and design that arise from the Humanitarian Charter. Recognise the importance of human rights and 'dignity' as underpinning principles in humanitarian operations. Identify how their organisations' current activities may be improved to help people affected by disasters to achieve their human rights.

 Allow up to 1 minute.


**Explain that:**

- this session is about the implications of the Humanitarian Charter.

☐ Show slide 'The humanitarian imperative'

**Recap from session 1:**

- the humanitarian imperative is to:
  - prevent and alleviate human suffering
  - protect life and health (improve human condition)
  - ensure respect for the human being
  - the humanitarian imperative implies a right to receive humanitarian assistance and a right to offer assistance
- this is fundamental to humanitarian principles
- the humanitarian imperative implies an overall protection approach, that is, the respect of international humanitarian law and human rights.

 Allow up to 2 minutes.


☐ Show slide 'Humanitarian action'

**Explain that:**

- the significance of this phrase is that it recognises people have a right to a life with dignity
- humanitarians can assist people to meet their basic needs
- humanitarians should not only assist in material terms but also commit to advocating to governments to uphold and provide for peoples' rights.

**Explain that:**


- rights make clear everyone's obligations
- as humanitarians we can use international legal instruments to hold States to account
- rights help communities hold their governments to account as citizens to obtain protection and assistance in times of disaster.

 Allow up to 3 minutes

**Ask:**

- 'What does dignity mean?'
- 'How can we help ensure our work treats people with dignity?'


**Review the group's ideas.**

 Allow up to 5 minutes

☐ Show slide 'Dignity'.

**Explain that dignity depends on core concepts which need to be taken into account in humanitarian work, including the following:**

- the individual must have control in their life, with autonomy and self determination
- their rights must be respected, with decisions made only with their informed consent, and their confidentiality must be respected
- their cultural identity, values and behaviours must be recognised
- this all means that states have a responsibility to ensure the dignity of the individual, both in terms of what the states aim for, and what they do
- dignity is central to the individual's rights.

 Allow up to 3 minutes.


## Activity 2: Exercise on the implications of rights for humanitarians

### 20 mins

☐ Show slide 'PANELS'

#### Explain that:

- one way to frame the issues that arise from the implication of our recognition that all people have human rights is to use the acronym 'PANELS'
  - Participation
  - Accountability
  - Non-discrimination
  - Empowerment
  - Law
  - Sustainability.
- this acronym provides guidance to programme/project planners.

 Allow up to 2 minutes.

#### Ask them to:

- work in small teams (you will need 6 groups in total).

**Give one card (with one term from the acronym) to each team.**

#### Ask each team to:

- find examples of text in the Humanitarian Charter that demonstrate commitment to these terms
- be prepared to read their references aloud.

#### **SUPPORTING INFORMATION**

If you need to help participants, here are some examples from the Humanitarian Charter.


##### **Participation:**

The Humanitarian Charter implies a commitment to participation in several places.

Section 1.1, the principle "the right to life with dignity" implies that beneficiaries of programmes are consulted and informed throughout the programme. Our dignity is self-defined, and we must be consulted in order to live with dignity while receiving disaster assistance."

Section 2.1 "we recognise that it is firstly through their own efforts that the basic needs of people affected by calamity or armed conflict are met", is another example.

Section 3 implies participation to be fully accountable. The Code of Conduct, (which informs the Humanitarian Charter), principle 7 "ways shall be found to involve programme beneficiaries in the management of relief aid".

 Allow up to 10 minutes.



**Call the group back together.**

**In the time remaining, ask each team to:**

- discuss the references they found for their term.

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### Activity 3: Exercise on the implications of rights for programme/project design

**25 mins**

☐ Show again the slide 'PANELS'.

- Participation
- Accountability
- Non-discrimination
- Empowerment
- Law
- Sustainability.

**Ask:**

- 'Can you give examples of projects you have worked on that address these terms?'

**Ask them to:**

- stay in their team
- choose two of the concepts (from PANELS) and discuss how their programmes/projects address the concept
  - for example, how do they ensure participation from the affected population?
  - for example, does their monitoring system include the affected population's feedback?
- record some key points on a flipchart and be prepared to present them to the rest of the group.

 Allow up to 10 minutes for discussion.

**Call the group back together.**

**Ask each team in turn to present their examples.**

**At the end of the presentations ask:**

- What are additional implications of the terms to programmes/projects?
- What was done to ensure that those terms were addressed?
- What lessons can be drawn from these examples to inform future humanitarian assistance programmes?

**Explain that:**

- As the Humanitarian Charter acknowledges, people affected by disaster are in the best position to understand their needs in both the short and long term.
- It is therefore vital that we ensure people have the opportunity to comment and contribute on the design of projects.
- As humanitarians we have committed to being accountable to both the people we seek to assist, and to the people from whom we receive funds.
- It is therefore essential to build systems that allow feedback from the relevant parties.

- Non-discrimination is a fundamental principle of human rights law.
- Our work should be impartial and perceived as such by the community we are seeking to assist.
- Humanitarian programmes and projects should not be imposed on affected populations.
- Instead, we should respect affected populations' responsibility and remain committed to the transfer of skills and learning where appropriate.
- The law is important as it helps us identify when states are unwilling or unable to assume responsibilities and provides a framework of entitlements by citizens to the state.
- Promoting rights as underpinning humanitarian action adds value when thinking about the impact of humanitarian work.
- While there is a need for emergency responses, projects should also consider issues of sustainability – once the humanitarians leave, what will be left?
- A rights-based approach to humanitarian assistance will therefore help ensure that vulnerability to future disasters will be reduced.
- Finally, this means that we need to not only consider programme design for our assistance activities, but also consider advocacy activities.

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## Activity 4: Presentation on the ICRC Protection Mapping Tool

### 20 mins

**Introduce this part of the session.**

**Explain that:**

- so far, we have focused on a tight, micro view of programmes and projects
- now we are going to see the wider picture, moving to a 'macro' view of humanitarian action, seeing it in an overall sense.

☐ Show the slides on 'Complementary Mapping'. Please rehearse these slides carefully, and consider what you will say as the slide builds.

**Explain that:**

- the Protection Mapping Framework describes 'modes of action'
- it was developed by the ICRC with input from other agencies to holistically think through and link protection and assistance strategies
- this is a model through which to view the spectrum of activities that may be undertaken by different humanitarian agencies in a humanitarian emergency
- it serves to demonstrate how different organisations may take different roles in times of emergency
- it emphasises the primary responsibilities of governments to provide protection and assistance and how the humanitarian community can support their work.
- it considers how material assistance and advocacy to states need to complement one another to maximise peoples' opportunities for achieving their rights.

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## Activity 6: Conclusions

### 10 mins

**Ask:**

- 'What are the implications of the Humanitarian Charter?'
- 'What implications does a rights-oriented approach have for programme/project design?'

- `Has this day changed the way you will do your work? How?"

**Briefly review the activity against the learning objectives.**



**MODULE 2 OPTIONAL TOOLKIT****Section A – Basic concepts: rights, principles, citizenship and human rights****You can use these exercises to support:**

- Session 1: Main messages of the Humanitarian Charter.

<b>Activity</b>	<b>Page</b>
1: What are principles?	<b>134</b>
2: Culture and rights	<b>136</b>
3: Humanitarian principles and the individual	<b>137</b>
4: An allegory	<b>138</b>

## Optional Exercise 1: What are principles?

### 40 mins

#### Description

A simple team exercise on principles for negotiating how to share scarce resources.

#### You can use this exercise to:

- build awareness of how the need for laws emerges
- focus the group on basic civil and societal needs
- focus on basic civil society concepts including duties.

Key words: principles, rule of law, states, duties, civil society

#### Preparation

One bottle of water for every team of 5-7 participants.

### Exercise

#### Ask them to:

- work in teams of 3 to 6 people.

**Place a bottle of water in the middle of each table.**

#### Ask some of the teams to:


- assume the role of civilian individuals who are stranded with only one bottle of water between them
- discuss how are you going to share it
- prepare to discuss their ideas with the rest of the group.

#### Ask the rest of the teams to:

- assume the role of states who must share this bottle of water
- discuss how are you going to share it
- prepare to discuss their ideas with the rest of the group.

#### Ask each team to:

- write their approach on a flipchart.

 Allow up to 20 minutes.


**Call the group back together.**

#### First, ask each team in turn representing the civilian individuals to:

- explain what they propose to do.

#### After the teams representing individuals sharing the water have presented explain that:

- when discussing and negotiating how to share the water, they have created the underlying mechanisms of law, or the basis for the rule of law
- they have agreed principles of behaviour, potentially rules to live by.

 Allow up to 10 minutes.

#### Ask each team in turn representing the governing states to:

- explain what they propose to do.

**After the teams representing states have explained their approach, explain that:**

- they have created the basis for international law, and invented treaties.

**Explain that:**

- the Humanitarian Charter refers to laws that have been decided by states
- these are agreements on how states behave – outlined in the three fundamental principles of the Humanitarian Charter
- the Humanitarian Charter also refers to principles that have been agreed by many humanitarian organisations
- law and principles may help humanitarian organisations solve frame of our problems.

## Optional Exercise 2 – Culture and rights

### 20 mins

#### Description

A simple exercise that encourages people to look at the forces that promote the Humanitarian Charter and those that try and undermine it.

#### You can use this exercise:

- to enable participants to gain a wider perspective on the forces against for and against the Humanitarian Charter
- to raise awareness of the danger of making assumptions.
- as a quick activity to focus the group on the wider picture, for example after reviewing legal detail during Module 2.

Key words: Human rights, universality, culture.

### Exercise

#### Explain that:

- you are going to tell a story from many years ago.

#### Tell the story:


- a slave owner is given a book by the philosopher Kant and reads it one evening
- the slave owner decides that her slaves should be free
- she gathers the leaders together, and with a flourish of arm waving pronounces that they are all free
- the slaves think about it overnight, and the next day the leaders say: "well, no thanks – we just want a day off and a little bit of alcohol from time to time".

#### Ask the group:

- 'What is going on?'

#### If not raised by the group, suggest the following points:

- the slaves might be afraid of freedom
- the leaders of the slaves have vested interests in retaining leadership.

 Allow up to 10 minutes.

☐ Show slide 'Culture and rights'.

#### Explain that:

- there are many factors acting for and against the Humanitarian Charter and human rights
- for example people must recognise and accept rights, preferably with the backing of the law if they are to be enforced
- on the other hand, accepted aspects of the local culture may undermine human rights interests
- another powerful force against human rights come from the people who have a vested interest in making sure that those rights are not respected.

#### Explain that:

- human rights are applied universally
- their interpretation and value are the result of opposing forces that differ in each context.



## Optional exercise 3: Humanitarian principles and the individual

### 60 mins

#### Description

A team discussion exercise on how the 10 principles of the RC/RC and NGO Code of Conduct might impact on individual behaviour.

#### You can use this exercise to:

- promote awareness of the RC/RC and NGO Code of Conduct
- make a link between the RC/RC and NGO Code of Conduct and the Humanitarian Charter.

Key words: principles, individual behaviour

#### Preparation

Ensure each participant has a copy of the Sphere Handbook.


### Exercise

#### Ask them to:

- work in teams of 5 or 6.

#### Ask each team to:

- read the Code of Conduct.

 Allow up to 5 minutes.


**Give each team one or two of the 10 principles in the Code of Conduct.**

#### Ask each team to discuss the following questions:

- What is the meaning of the principle(s)?
- What are the implications of the principle(s) to the individual behaviour of humanitarian aid workers?

#### Ask each team to:

- try to reach consensus
- summarise key points on a flipchart, in order to give a short presentation to plenary.

 Allow 25 minutes for the teams to discuss the questions and prepare their presentations.

#### Ask them to:

- display their flipchart at the front of the room before the presentations start.

 Allow 20 minutes for teams to feedback.

#### Lead a short group discussion on the question:

- how useful are humanitarian principles?

#### Explain that:

- the Humanitarian Charter also makes a commitment to following the principles laid out in the Code of Conduct

**The Code of Conduct video might be a good way to round off the exercise (playing time 10 minutes)**

## Optional Exercise 4: An Allegory

### 90 mins

#### Description

The allegory is a story telling exercise. The story can be used to illustrate the basic concepts of:

- civil society
- social contracts
- rule of law
- justice
- citizenship
- sovereignty
- international law
- human rights laws
- obligations and rights
- claims and entitlements.

The story follows the development of a small imaginary community as they struggle with these concepts inside their own village.

This exercise is most powerful when used in cultures where oral story telling is traditional, or where more exploration of fundamental concepts of principles and citizenship is desired.

#### You can use this exercise to:

- enable participants to gain a deeper understanding of core humanitarian concepts
- challenge participants' concept of citizenship and social principles
- explore factors that influence humanitarian contexts.

#### Preparation

- Photocopy the handout 'The allegory' for each participant (4 pages)
- As an option, photocopy the handout 'Glossary of legal terms' from Session 2 if the participants do not already have a copy.

### Exercise

#### Explain that:

- we are going to focus on a story about a society.

**Give out a copy of the handout: 'The allegory' to each participant.**

**Read the allegory out loud, or get participants to read different parts.**

**Break off at logical points to record new concepts of ideas. Some key terms and milestones in the story are in italics in the handout.**

**Write these on a flipchart as they appear.**

**As the story is told, make sure that you draw attention to the following terms, and write them on the flipchart as they appear:**

- civil society
- social contracts
- rule of law
- justice
- citizenship

- sovereignty
- international law
- human rights laws
- obligations and rights
- claims and entitlements.

⌚ Allow up to 20 minutes to tell the story and record the key terms.

**At the end of the story discuss with the group what the story means to them.**

⌚ Allow up to 15 minutes.

**Review the terms listed on the flipchart and ask:**

- 'What do you think are the main implications of these terms for your work?'

⌚ Allow up to 15 minutes.

**Encourage the participants to share their own stories about:**

- issues from their own experience
- historical developments in their country, region, or culture that the allegory reminded them of.

**In the time remaining, lead a group discussion, using the following guide.**

## Discussion guide for trainers

### 1. What is the difference between a right and a gift?

Duties to give gifts do not exist, but if someone has a right to something it implies a duty for someone else to provide that thing. Every right creates duties and entitlements.

### 2. What are rights? What are claims?

Rights are claims under laws. Claims are entitled to succeed under law.

### 3. What are duties?

Duties are obligations that flow from the law.

### 4. What makes human rights special?

Human rights are universal. They apply to all of us by virtue of our humanity. Human rights identify the minimum conditions for living with dignity. They are inherent, meaning they cannot be taken away. Human rights have two dimensions: they are both moral norms and legal rights. Rights can be found in both national and international laws.

### 5. What types of duties arise out of human rights?

Contemporary thinking is that for each right there are three different types of duties: to respect, protect and fulfil.

### 6. If a valid claim for a right exists in a nation, who is the duty bearer?

The state is the duty bearer, and the individual can claim the right through the institutions that can help people achieve their rights (national courts etc).

### 7. What sources for human rights exist?

National and international laws (UDHR as a source for international law, IBR) and also national constitutions. These documents do not create rights, they merely identify them. The Geneva

Conventions and their additional protocols also outline the rights of combatants and non-combatants in armed conflict situations. The Refugee Convention of 1951 lays out the rights of refugees.

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## Optional exercise 4: An allegory

### Handout (4 pages)

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#### Chapter One: In the beginning...

...was a community of people made up of various families. They all knew each other and had established certain social arrangements.

Each family was responsible for a different function within the village, such as hunting, raising crops, gathering fuel, cooking, fashioning tools, building houses and so on.

They were content because they had adequate air, water to drink, food to eat, shelter from inclement weather and refuge from predators.

Within the village they were satisfied that they had made appropriate divisions of labour, with each person responsible for the chore they were best suited to. They were also content with decisions that had been made about where to place the schools and various public services.

Village elders were available for advice on the difficult matters, such as the forming of bartering and trading arrangements.

Everyone relied on everyone else and promises were kept.

---

#### Chapter Two: A problem

Then a problem occurred to upset the smooth running of the villagers' lives.

A shortage in food developed, as a result of the rains failing. This not only meant crop failure, but also a scarcity of the animals they normally hunted for food. Also, the population had grown larger.

It was the first time the village had had to face the allocation of a scarce resource.

The people were no longer content and began to make conflicting claims. Some stated the allocations should be made 'to each according to his contribution', whilst others suggested the allocations should be made 'to each according to his needs'.

These counter-claims led to a decision about whether the village should be governed by the **principle** of competition or cooperation.

Although the principle of competition would lead to the survival of the strongest, it seemed more sensible to ensure that the majority survive according to a sensible scheme of cooperation. The allocation was therefore made on the basis of each 'according to his need'.

Although in this instance the problem was solved, it made the villagers realise they needed to prepare for a future occurrence. They would need plans for crisis management.

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## Chapter Three: Rules, laws and rights

A proposal was made for the village to draw up a set of rules for the distribution of anything which could ever become scarce again. Once agreed, the rules would be considered as **binding** – and no one should challenge them when the time arose to use them.

The rules would be applied, and people would receive their **entitlement**.

The villagers encountered three problems when they tried to draw up the rules:

- What were the rules going to say?
- Who was going to apply them to the various individual claims?
- How could one ensure that no one would break them?

They came up with the following solutions:

1. The rules were to be prepared by a group with wide representation of the different functions within the village (for example, hunter, gatherer, tiller). These would then be presented at another village meeting for approval or amendment. When agreed, the rules were to be given the special name of '**laws**' and would be binding.  
They had settled the problem of how to **make** the law.
2. Applying them would be easy. Each claim would be submitted to the village elders, who would determine it according to the laws. Every claim should be determined in public, with all the village **entitled** to be present.  
They had settled the problem of how to **apply** the law.
3. There were two options for enforcement. Firstly, the community could give a single one of its members the power to ensure that everyone would comply with the laws (if necessary, by force). Or secondly, individuals would be entitled to retrieve what they had lost. If that did not succeed, the whole village could help an individual, and as a last resort they could exclude offenders from the village. They adopted the second option (because of lack of trust for the putting the power in the hands of one individual), and had thereby solved the problem of **enforcing** the law.

In fact, the village had pre-empted the eighteenth century by making a clear distinction between the three important functions of law – **the making, applying and enforcing of laws**.

Someone asked, "What shall we call a claim that is entitled to succeed under our laws?". They decided to call these claims a **right**.

---

## Chapter Four – A murder

Although the village thought they were now prepared for all contingencies, they were soon to be surprised. The next problem soon lured its ugly head, in the form of a murder in their midst.

Again the village were faced with the same questions:

1. What were the rules going to say? – Who was to **make** the laws?
2. Who was going to apply them to the various individual claims? – How were they to be **applied** to particular cases?
3. How could one ensure that no one would break them? How were they to be **enforced**?

**The villagers agreed the same solution as previously:**

- The laws were to be drawn up in the first place by a small group representing the different interests within the community, and debated and approved at a public village meeting.
- Thereafter, the laws were to be applied by the elders sitting in a public place.

However, there was much debate about how the laws were to be enforced, for this crime had greater implications than the food shortage, and the villagers wanted to prevent such a thing happening again.

They had two choices on the subject of **enforcement**: The person who had killed could be killed in return, or someone could be formally nominated by the community to carry out the execution on his behalf.

**This raised the following objections:**

1. The killer should have the chance to redeem his own life by making reparation to the victim's family and voluntarily leaving the village.
2. If the killer was killed there would inevitably be more trouble.
3. The person deputed to kill the killer would become a licensed killer on behalf of the village. Could anyone imagine being vested with such a terrible power?

**And so they adopted the following solution:**

If one of their members killed another, he had the option to pay full reparation to the victim's family. If the amount, or the manner or time of payment was in dispute, then the village elders would determine the issues at a public hearing.

If the killer paid what was due, his life would no longer be in jeopardy – if not, then he had put himself outside the community.

Having refused to **respect** the laws he was no longer **entitled** to their **protection**. All his possessions could be seized and he would be expelled from the community altogether.

Someone asked, "What shall we call a man once he is outside our law?" They decided to call such a person an outlaw.

---

## Chapter Five: The newcomers

At this point in the village's life a new family arrived with very different habits to the rest of the villagers, who had grown to know one another and their customs very well. However the new family also brought new skills and knowledge which were interesting to the village.

Not long after the family's arrival a warehouse caught fire and was burned to the ground. Under the village's co-operative laws all the families were **bound** to share the rebuilding and restocking of the warehouse.

The newcomers protested, saying that the place they came from had no such laws. They protested to being bound by the laws of this village, on many grounds:

1. they had had no part in making the laws
2. they had never accepted the elders' jurisdiction
3. the elders of the village had no interest in finding in favour of the new family
4. why wasn't the head of the new family an elder
5. and so on.

The elders saw that the new family had a point. They asked whether the family would accept the laws of the village if the family were treated as full members of the community in all respects. That is, if:

- the head of the family were made an elder, with a voice on the village council
- there were to be full recognition and respect for all the rights of all the members of his family under those laws.

The newcomer accepted.

This led the village to understand they had created two key concepts:

- **Laws are rules of conduct treated within a community as binding on all members.**
- **Rights are claims made by those members and entitled to succeed under the community's law.**



## MODULE 2 OPTIONAL TOOLKIT

### Section B

#### Human rights and the international legal framework

**You can use these exercises to support:**

- Session 2: Fundamental human rights concepts
- Session 3: The international legal framework

<b>Activity</b>	<b>Page</b>
5: Concept questions	<b>146</b>
6: Quiz on the legal instruments	<b>148</b>
7: Statements in international law	<b>151</b>

## Optional exercise 5 - Concept questions

### 60 mins

#### Description

This is a discussion exercise designed to familiarise participants with some of the basic concepts in human rights history and law.

#### You can use this activity to:

- introduce the concept of human rights in session 1
- deepen participants' understanding of core concepts

Key words: human rights, citizenship, sovereignty, rule of law, civil society, globalisation, non governmental organisations, the international community.

#### Preparation

Write a card for each team as follows:

<b>Team A</b>	Human rights and citizenship
<b>Team B</b>	Human rights and sovereignty
<b>Team C</b>	Human rights and the rule of law
<b>Team D</b>	Human rights and civil society
<b>Team E</b>	Human rights and non-governmental organisations
<b>Team F</b>	Human rights and the international community

#### Exercise

#### Ask them to:

- work in small teams, ideally four or five people to a team.

Give out a different concept card to each team.

☐ Show slide: 'Concept questions'.

#### Ask the teams to answer the questions on the slide:

- What is the relationship between the two concepts on the cards?
- Why are these concepts important for humanitarian actors?
- Are such concepts relevant in the context in which we operate – national, regional...? Why?

#### Explain that:

- in 20 minutes they will need to present the conclusions to the rest of the group.

#### Ask them to:

- prepare a short informal presentation that should last no longer than 3-5 minutes.

#### Circulate and support the teams during this discussion

 Allow 20 minutes for this team discussion.

Bring the group back together.

**Ask each team in turn to:**

- present their concept.

**Encourage the group to:**

- ask questions
- comment on the concept.

**Explain that:**

- generally there are no 'right' answers.



Allow 3-5 minutes for each team to present.



Allow 40 minutes in total for the group discussion.

## Optional Exercise 6: Quiz on the legal instruments

### 30 mins

#### Description

A quiz that is ideal for small teams to review learning on the international legal instruments.

#### You can use this exercise:

- at the end of a session, as an exercise to review learning
- as a competitive quiz to generate interest
- as a study exercise for an individual participant.

Key words: International Humanitarian Law, International Human Rights Law, International Refugee Law, the Guiding Principles on IDPs

#### Preparation

Photocopy:

- one copy of the quiz and answer sheet below for yourself.
- one copy of the handout for all participants if using the quiz as an individual exercise.


### Exercise

**Ask them to work in small teams of 3 to 6.**

**Give out the handout: 'Quiz on the legal instruments.'**

**Ask the teams to:**

- give themselves a name
- choose somebody to write down the team's answers on the handout
- read out the questions – teams should record their answers
- keep their answers secret from the other teams
- put the name of their team on the top of the handout.

 Allow up to 20 minutes.

**When you have finished reading out the questions, ask the small teams to:**

- swap papers in order to mark the other team's answers.

**Explain that:**

- each correct answer earns one point
- bonus points are available (give these at your discretion).

**Go through the answers in main group, and stop to clarify answers where wrong answers have been given.**

**Gather up the scores and give a prize to the winners!**

**Answers to quiz: (Trainer's copy: answers in bold)**

1	What is International Humanitarian Law (IHL) also known as? <b>The laws of war</b>
2	What are the major IHL treaties known as? <b>The Geneva Conventions</b>

3	What is the major difference between an IDP and a refugee? <b>A refugee has crossed an international state border</b>
4	Which principles exist to protect IDPs? <b>The Guiding Principles for IDPs, formulated by Francis Deng in 1998</b>
5	Are these principles legally enforceable? <b>Technically no, but many of the principles have their basis in international law</b>
6	Which major convention protects refugees? <b>The 1951 Convention on the Status of Refugees or the 1969 Organisation of African Unity (OAU) Refugee Convention</b>
7	What does the right of non-refoulement mean? <b>The right not to be forcibly repatriated to the country from where you have fled</b>
8	Who has the primary role and responsibility to provide assistance when people's capacity to cope has been exceeded? <b>National government</b>
9	List three of the principles of the Code of Conduct <b>See Sphere handbook (RC/RC NGO)</b>
10	List the three principles contained in the Humanitarian Charter <b>1) the right to life with dignity, 2) the distinction between combatants and non-combatants, 3) the right to non refoulement</b>
11	Who are the two main bodies responsible for promoting and adhering to IHL and Refugee Law respectively? <b>The International Committee of The Red Cross (ICRC) and the United Nations High Commissioner For Refugees (UNHCR)</b>
12	As the guardians of IHL and rights law are these bodies the ultimate decision-makers on the enforceability of IHL and Refugee Law? <b>No</b>
13	For whom are the rules of IHL binding? <b>States and warring parties</b>
14	Is there a "right to asylum"? <b>No, only a right to seek asylum</b>
15	When negotiating with warring parties for access to affected populations, which organisation can provide legal advice? <b>ICRC</b>
16	What mechanisms exist for enforcing international law? <b>National mechanisms, ad hoc tribunals, The International Criminal Court and The International Court of Justice, sanctions, advocacy, truth commissions, Security Council Resolutions etc.</b>
17	Which body gives permission for the use of armed force by states? <b>The UN Security Council</b>
18	What does the term 'non-derogable' mean? <b>Rights that can never be suspended even in a state of emergency</b>
19	List five rights from the Universal Declaration of Human Rights. <b>See the Universal Declaration of Human Rights (Handout for optional exercise 4: Fundamental human rights concepts)</b>
20	What two things does international law recognise that those affected by disasters are entitled to? <b>Protection and assistance</b>
21	List two duty bearers in law. <b>States and warring parties (legally), any member of civil society (morally)</b>

## Module 2: Optional exercise 6

### Quiz – The international legal instruments

#### Handout (1 page)

- 1 What is International Humanitarian Law (IHL) also known as?
- 2 What are the major IHL treaties are known as?
- 3 What is the major difference between an IDP and a refugee?
- 4 Which principles exist to protect IDPs?
- 5 Are these principles legally enforceable?
- 6 Which major convention protects refugees?
- 7 What does the right of non-refoulement mean?
- 8 Who has the primary role and responsibility to provide assistance when people's capacity to cope has been exceeded?
- 9 List three of the principles of the Code of Conduct
- 10 List the three principles contained in the Humanitarian Charter
- 11 Who are the two main bodies responsible for promoting and adhering to IHL and Refugee Law respectively?
- 12 As the guardians of IHL and rights law are these bodies the ultimate decision-makers on the enforceability of IHL and Refugee Law?
- 13 For whom are the rules of IHL binding?
- 14 Is there a "right to asylum"?
- 15 When negotiating with warring parties for access to affected populations, which organisation can provide legal advice?
- 16 What mechanisms exist for enforcing international law?
- 17 Which body gives permission for the use of armed force by states?
- 18 What does the term 'non-derogable' mean?
- 19 List five rights from the Universal Declaration of Human Rights.
- 20 What two things does international law recognise that those affected by disasters are entitled to?
- 21 List two duty bearers in law.

## Optional Exercise 7: Statements in international law

### 60 mins

#### Description

A team game for exploring points of international law in more detail. The exercise involves small team work and can be set up as a competition.

#### You can use this exercise:

- at the end a session to test and reinforce learning
- to further explore some of the concepts in international law.

Key words: International Humanitarian Law, International Human Rights Law, International Refugee Law, the Guiding Principles on IDPs

#### Preparation

Photocopy the participant statements sheets for each small team. Cut out each statement and paper clip together so each team will have statements 1 – 15.

Prepare a flipchart sheet for each team. Divided this into four equal squares:

- in the first square write IHL
- in the second square write International Human Rights Law
- in the third write International Refugee Law
- in the fourth write National Law.

You will also need blue tac or sellotape so the participants can stick the statements to the flip chart.

### Exercise

#### Ask them to:


- work in small teams of 3 to 6.

**Hand out the a set of statement strips to each team.**

**Hand out the flipchart sheets to each team.**

**Ask the teams to stick the statements in the appropriate category on the flip chart page:**

- International Humanitarian Law
- International Human Rights Law
- International Refugee Law.

 Allow 30 minutes for this part of the exercise.

#### You may want to:

- run this as a competition by scoring the answers from each team
- give participants handouts from Session 2 to inform their answers.

**After 30 minutes, call the group back together and review the answers, using the answer key below.**

**Make explanations where needed to clarify difficulties.**

**Answer key (for trainers)**

- 
- 1** Rebels in country X engage in hit and run tactics against the governments – for example by blowing up power installations and other public facilities, but then retreating.  
**National law, IHL Common Art 3, Protocol II (depending on level of violence and organisation).**
- 
- 2** Rebels forces of country Y are trying to overthrow the government with armed force. Country X arms and equips them, but does not send any troops.  
**IHL Art 3, Protocol II – International conflict. (GC + PI). Govt. X may deny sending arms.**
- 
- 3** A prison guard sexually assaults an inmate.  
  - International Human Rights law, as prison guard is an agent of the state. (Could also be dealt with under national law)
- 
- 4** A student in a university sexually assaults a university employee.  
  - Clear case of national law.
- 
- 5** The government fears the damage a new militant group can do. They arrest people they suspect to be leaders, before any attacks or crimes are committed.  
  - International Human Rights law (could be both international or national).
- 
- 6** A member of the minority group in a country fears being conscripted into a rebel movement who claims to represent the minority group flee to a neighbouring country.  
  - 1951 Convention on the Status of Refugees which allows for fear of persecution by national government, although this is a non-state actor Refugee law has evolved to include this definition.
- 
- 7** In a brutal civil war, rebels cut off the arms of civilians to instil fear into the population.  
**IHL (Art 3 and PII), war crimes. Also human rights law - crimes against humanity.**
- 
- 8** In a brutal civil war, a civilian cuts off the arms of civilians who belong to the other side.  
  - National law, but also crimes against humanity - human rights law.
- 
- 9** An alliance of military forces of several countries, who are members of the UN, launches a bombing campaign against Country X to pressurise the government of that country to stop committing human rights abuses against its citizens, who are part of a minority group.  
  - UN Charter, Chapter 7 and IHL. Ask who monitors the UN – Governments and ICRC.
- 
- 10** A former member of a rebel army now fears his former colleagues may kill him for being a traitor. He flees to a neighbouring country.  
  - 1951 Convention, non-state actor persecution and maybe exclusion clause 1F. The precedent for this is a former IRA member who fled to Canada and successfully applied for refugee status. IHL – protection of those 'hors de combat'.
- 
- 11** A human rights activist has been detained for several months and still has no idea when his trial will begin.
-



- 
- International human rights law. Also the ICCPR – Article 14. May also be dealt with under national law.
- 

**12** Due to riots and fighting in the streets, the government has declared a state of emergency.

- National law provides for governments declaring a state of emergency however it also comes under international Human Rights law – the ICCPR.
- 

**13** In order to carry out its economic plans, a government decides to build dams in several rivers in an area which is inhabited by a minority, and obliges the population to move.  
**International Human Rights law, and also the Guiding Principles for Internally Displaced People – Section 2, Principle 6 (c)**

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**14** Several villages in a border zone are threatened by floods caused by excessive rainfall. The inhabitants decide to leave and cross into country Y.

- National law of country Y, who could decide to provide a humanitarian status for people. Not refugee law as there is no fear of persecution.
- 

**15** In an armed conflict between the government and rebel forces, the rebels are gaining territory. The civilian population, who are living in an area affected by the war and who fear the rebel forces, decides to leave and crosses the border into a neighbouring country.

- National law moving into international law, as this highlights the problem of when national conflict becomes international conflict, depending on the level of organisation, command structure etc.). If international then could be Protocol II. Could be refugee law, with wider definition of OAU Convention.

## Module 2: Optional Exercise 7: Statements in International Law (1 page - to be cut into single statements for groups)

1	Rebels in country X engage in hit and run tactics against the governments – for example by blowing up power installations and other public facilities, but then retreating.
2	Rebels forces of country Y are trying to overthrow the government with armed force. Country X arms and equips them, but does not send any troops.
3	A prison guard sexually assaults an inmate.
4	A student in a university sexually assaults a university employee.
5	The government fears the damage a new militant group can do. They arrest people they suspect to be leaders, before any attacks or crimes are committed.
6	A member of the minority group in a country fears being conscripted into a rebel movement who claims to represent the minority group flee to a neighbouring country.
7	In a brutal civil war, rebels cut off the arms of civilians to instil fear into the population. IHL (Art 3 and PII), war crimes. Could also be human rights law - crimes against humanity.
8	In a brutal civil war, a civilian cuts off the arms of civilians who belong to the other side.
9	An alliance of military forces of several countries, who are members of the UN, launches a bombing campaign against Country X to pressurise the government of that country to stop committing human rights abuses against its citizens, who are part of a minority group.
10	A former member of a rebel army now fears his former colleagues may kill him for being a traitor. He flees to a neighbouring country.
11	A human rights activist has been detained for several months and still has no idea when his trial will begin.
12	Due to riots and fighting in the streets, the government has declared a state of emergency.
13	In order to carry out its economic plans, a government decides to build dams in several rivers in an area which is inhabited by a minority, and obliges the population to move.
14	Several villages in a border zone are threatened by floods caused by excessive rainfall. The inhabitants decide to leave and cross into country Y.
15	In an armed conflict between the government and rebel forces, the rebels are gaining territory. The civilian population, who are living in an area affected by the war and who fear the rebel forces, decides to leave and crosses the border into a neighbouring country.

## MODULE 2 OPTIONAL TOOLKIT

### Section C – The implications of the Humanitarian Charter

You can use these exercises to support:

- Session 3: Implications of the Humanitarian Charter

<b>Activity</b>	<b>Page</b>
8: Protection case study	<b>156</b>
9: Actor mapping	<b>162</b>
10: Debate questions	<b>166</b>
11: Protection and complementarity	<b>169</b>

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## Optional exercise 8 - Protection case study

### Rohingya Refugees 1992-1997

#### 60 mins

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#### Description

This case study relates events in Bangladesh in the 1990s, when 260,000 Rohingya refugees crossed from Burma. There is a handout that accompanies the case study, relating how one INGO reacted to the events. The handout can be used as the basis for discussion when debriefing the exercise.

#### You can use this activity:

- after session 3 or 4
- to consolidate learning in the specialised area of protection of refugees
- to look at issues around protection, refugee law and advocacy
- to encourage participants to consider terms of engagement.

Key words: refugees, International Refugee Law, advocacy, working with governments and the UN

#### Preparation

Photocopy one copy of the case study and accompanying handout for every participant.

<h2>Exercise</h2>
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#### Ask them to:

- work in teams of 3 to 6.

#### Give out:

- the case study handout to the teams.

#### Explain that:

- teams have 45 minutes to read and answer the case study questions.

#### Ask teams to:

- present their findings in group discussion.

#### In the discussion, aim to concentrate on:

- issues of protection of refugees
- strategies and risks of advocacy.

## Module 2:

### Optional exercise 8 - Protection case study

#### Handout (3 pages)

### Rohingya refugees 1992-1997

#### Part 1 Protection and assistance

Continued human rights abuses in Burma had led many people to flee the country during the early '90s. Hundreds of thousands of Burmese had been subjected to arbitrary laws requiring forced labour under poor conditions, and tens of thousands of members of ethnic minorities had been forcibly relocated. The State Law and Order Restoration Council (SLORC) ruled by decree under martial law and imprisoned almost anybody who was critical of the government.

The Rohingya Muslim minority was perhaps one of the most vulnerable of Burma's ethnic minorities. Towards the end of 1991 more than 260,000 Rohingyas fled to neighbouring Bangladesh, a greater number (200,000) than had fled in 1978. The refugees' reasons for fleeing their homes in the Burmese province of Arakan ranged from increased militarisation, destruction of villages, forced labour, confiscation of land, to degrading and inhumane treatment.

In early 1992, the Government of Bangladesh (GoB) invited international agencies to assist the Rohingya refugees, because of the deteriorating health conditions. Twenty refugee camps were set up south of Cox's Bazar by the United Nations High Commissioner for Refugees (UNHCR) and international NGOs (INGOs). The GoB looked at the Rohingya refugee presence as a short-term problem and started to repatriate the refugees to Burma in September 1992. To protest against the coercive activities of the GoB, UNHCR refused to assist in this repatriation process. After the diplomatic intervention of the High Commissioner, Mrs Ogata to the Government, the GoB did agree to sign a Memorandum of Understanding (MOU) with UNHCR which allowed the refugee agency to carry out its mandate of assisting and protecting refugees.

#### Part 2 Voluntary repatriation

However at the end of 1993, the GoB and UNHCR announced a plan to facilitate voluntary repatriation. While the figures of Rohingyas who returned remained initially low – also due to the fact that a cyclone hit the camps in the Cox's Bazar area in Spring 1994 – pressure increased to send more people home.

Then in the summer of 1994, UNHCR suddenly changed its policy. While UNHCR had been adhering to a policy of individual interviewing to determine the individual refugees willingness to return, it now introduced a system of mass registration of those willing to return. Moreover, it changed from information sessions on the situation in Burma to promotion of repatriation, stating that the situation in Burma was 'conducive for return'. In an agreement with the Burmese authorities, UNHCR started a mission in Arakan, claiming it would be able to monitor the returnees.

Within months, tens of thousands of refugees went home. While UNHCR initially found that 23% of the refugees were willing to return, after its change of policy UNHCR stated that the willingness of the Rohingyas to repatriate had increased by about 95%. UNHCR stated that this was a voluntary repatriation.

Many of the INGOs involved in the operations for the Rohingyas in Bangladesh had questions about the change in UNHCR's policy. Especially, they doubted whether the refugees had sufficient information to make an informed choice about whether or not to return. If the refugees were badly informed, the voluntary character of the repatriation should be questioned.

UNHCR repeatedly confirmed that this was a voluntary repatriation, although the INGOs were not convinced. They realised that the only way to find out whether the repatriation was voluntary, was to do a survey. They carried out a survey in 11 of the 20 camps. The results showed that many of the refugees – 65% of the interviewed refugees – were still not aware of the possibility of refusing repatriation. 61% of the refugees said they had concerns about the repatriation, of which 48% stated that felt they could not express their concerns. In this group, 49% believed it was too dangerous to talk. Only 9% of the interviewed refugees were willing to return because they considered Burma to be safe, against 63% who did not want to repatriate.

In analysing the survey's results, the INGOs concluded that the refugees did not have the necessary information available to make a well-considered decision to repatriate. They were not aware of their right to refuse repatriation, nor did they have sufficient information on the situation in their home country. Furthermore they had lost confidence in UNHCR after its sudden policy change. For many of the refugees, it seemed that UNHCR and GoB had the same position on returning them to their home country, and consequently were afraid to communicate their concerns to UNHCR about repatriation.

### **Part 3 New arrivals**

However talks at a high level between UNHCR and one international NGO only resulted in the conclusion that both organisations "agreed to disagree". The repatriation continued. The GoB maintained its pressure towards UNHCR to complete its programme of voluntary repatriation. According to the Government, the refugees should be presented with no alternative but to return.

In July 1997, UNHCR counted 20,500 refugees in the camps of Nayapara and Kutupalong, the only two of the 20 camps erected in the area in 1991/1992 still operating. On July 20<sup>th</sup> and 21<sup>st</sup> the Bangladeshi authorities entered the camps and used force to intimidate refugees into repatriating. Refugees, including women and children, were beaten. Families were split up and a woman who was visibly pregnant was forced to repatriate.

Concurrently, it was reported that many thousands of new Rohingya refugees (also called 'new arrivals') had begun entering Bangladesh from February 1996. UNHCR's first reaction was to state that these people were to be considered 'economic migrants', a position also taken by the GoB. The Government consistently refused to acknowledge that the new arrivals might be entitled to protection. The government took the position that new arrivals should be prevented from entering Bangladesh, and summarily deported if found in Bangladesh. This policy meant that the new Rohingya asylum seekers were not allowed to enter either of the two remaining refugee camps, nor were provided with any form of humanitarian assistance by UNHCR or other agencies. In order to enforce this policy, Bangladeshi security officials entered the camps to arrest new arrivals in order to deport them. They also pushed back the small boats the Rohingyas used to try to cross the river. In March 1996, it was reported that 15 refugees drowned. This created enormous fear among the recognised refugees.

It is estimated that more than 15,000 Rohingyas managed to enter Bangladesh in 1996. It was also clear that a significant proportion of those entering Bangladesh were returnees, from the group of refugees who arrived in 1992 and were subsequently repatriated to Burma. After the monsoon season, a new wave (at least 7,000) entered Bangladesh in 1997, mainly during the months of May and June. Although they were denied access to the refugee camps, many of the new asylum-seekers

managed to enter. Although INGOs expressed serious doubts about UNHCR's official position that the new arrivals were economic migrants rather than refugees, it was not before the end of June 1997 that UNHCR finally wrote to the Government of Bangladesh asking that they be allowed access to the Rohingya .

**Task:**

In your team take 20 minutes to answer the following questions. You should elect a spokesperson and be prepared to give a presentation lasting no more than five minutes on your discussion.

- What should the international NGOs have done?
- What position would your field team have taken, in your opinion?
- How would you make your position known, and to whom?
- Do you see constraints in taking a public position? (for example, because of your organisation's mandate, relations with government?)

## Module 2: Optional exercise 8:

### Discussion guide

#### Handout (2 pages)

**This case study is derived from a response by MSF.  
Outlined below are some of the key actions they took.**

#### **What did MSF do?**

- 1) MSF organised an (I)NGO Forum: MSF, SCF, Oxfam with the aim of improving the level of information about refugees. This arose from concern to improve information dissemination between agencies in order to be able to increase direct pressure on UNHCR during meetings and for lobbying at the Dhaka level with the diplomatic community (for example embassies and donors).  
This resulted in UNHCR including 'safety nets' in the repatriation system (at entry point, re-verification point and at departure point).
- 2) MSF made a decision to do a survey in 11 camps in cooperation with the other NGOs (15th March 1995). The outcome of the survey showed that refugees had inadequate information on the "right to say no to return" (65%), inadequate information on the situation in Arakan and had therefore lost confidence in UNHCR.  
MSF published a 'Survey and Position Paper' (on 1 May 1995) which was distributed to the diplomatic community, NGOs specialising in human rights and refugees, MPs, academics and Asia press correspondents.

#### **The paper made the following recommendations:**

- Put the current repatriation programme on hold in order to set up a system for private interviewing of refugees. Refugees should be kept informed of the system by, for example, issuing information leaflets.
  - UNHCR should closely coordinate with the OHCHR Special Rapporteur. The Special Rapporteur should monitor and report on the returnees. Excom should review the present system for repatriation to ensure that it is in accordance with the UNHCR mandate.
- 3) The top level of MSF met with UNHCR HQ in Geneva (September). UNHCR and MSF "agreed to disagree" on some fundamental issues, including whether or not the repatriation movement could be considered voluntary.
  - 4) MSF informed the October '95 session of Excom of their debate with UNHCR, who reacted aggressively toward the criticism. In her opening speech to Excom, the High Commissioner laid out the first steps of a new repatriation policy: 'repatriation to situations that are less than optimal'.
  - 5) At headquarter level the debate on changing the policy of voluntary repatriation continued between refugee organisations, UNHCR and (independent) refugee law experts.  
At the local level MSF continued its witnessing role, asking critical questions to UNHCR. UNHCR responded to MSF questions by saying that they had no proof of structured violations human rights, nor information on cases of harassment to returnees.



- 6) The NGO community raised concern about 'new arrivals', firstly to UNHCR and subsequently to the diplomatic community in Dhaka to put pressure on Government of Burma. UNHCR stated that people were leaving Arakan for 'economic reasons' and were met with protests that they were simplifying the context.
- 7) As UNHCR were not interviewing refugees for status determination, MSF decided to collect stories from refugees and recruited an 'Information Officer'. Refugee stories proved that refugees had fear of persecution. MSF decided to write a thoroughly documented report to discuss its findings with UNHCR.

## Optional exercise 9: Actor mapping

### 90 mins

#### Description

This is an excellent model to use for visualising complex relations in different environments.

#### You can use this activity:

- at any point through the training module to demonstrate the importance of mandates, coordination and analysis of the actors
- exploring the roles and responsibilities of actors in the field.

Key words: analysis, actor mapping, roles and responsibilities, coordination, mandates.

#### Timing

Approximately 90 minutes. This exercise requires tight control over timing and outcome. It is often useful to start each stage on the flipchart in the main group to assist understanding of the expected outcomes of the exercise. Monitoring by facilitators of small teams work also helps.

#### Preparation

- Prepared flipchart with three exercise questions (see below).

### Exercise

#### Stage 1

##### Ask them to:

- work in small teams of 3 to 6.


**You may want teams of people who work together, or completely random, depending on the outcome you want.**

##### Ask the teams to answer the following questions (starting with number 3):

- What do others expect from us?
- What do we expect from others?
- Who are those others?

##### Ask each team to:

- draw a map which represents their answer to question 3.

 Allow 15 minutes.

**You may need to start the exercise off with an example on the flipchart. See example below.**

**Ask the teams to display their actor maps on the wall, so that a comparison can be made between the teams' results.**

**OPTION**

- Teams can be encouraged to draw the circles at a distance from their own circle that represents the importance of the other organisation to their own organisation.
- The central organisation can be whichever they feel represents themselves.
- As an additional task, encourage participants to colour code the types of organisations, or demonstrate this on a central flipchart in the main group. The colour coding indicates the type of organisation as follows:
  - Red = Legal organisations (with mandates enshrined in law)
  - Blue = State bodies
  - Green = Voluntary organisations
  - Yellow = Other types of groups

**Stage 2****Ask the teams to:**

- answer questions 2 and 3.
- highlight 2-3 responsibilities against each represented organisation
- or prioritise three or four organisations and go into more detail.

**Allow at least 30 minutes. Results can be recorded on a clean piece of flipchart paper. Some suggestions are in the table at the end of the activity.**

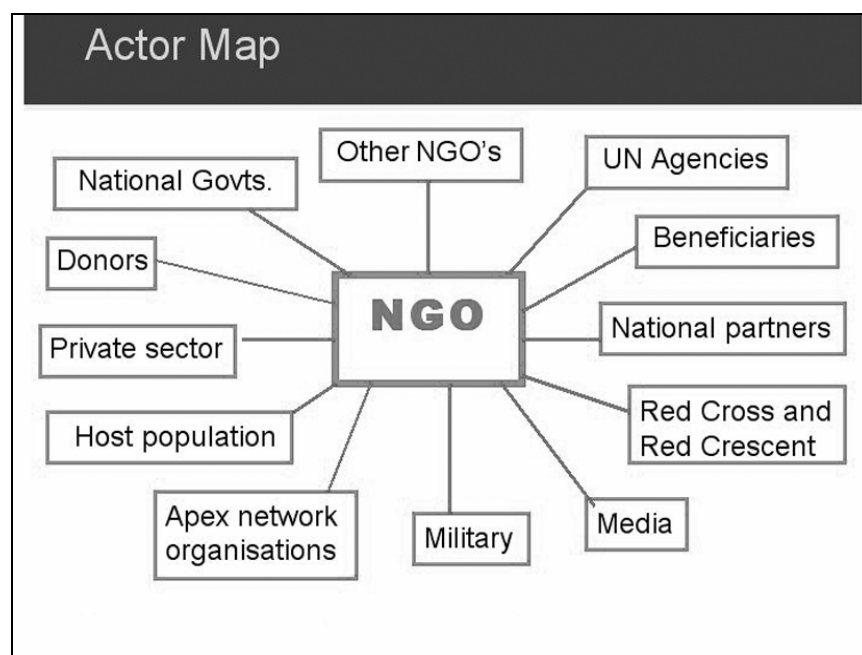
**Stage 3****Ask teams to:**

- display their charts on the wall.

**Conclude by commenting on the displayed charts in connection with any of the following:**

- To highlight common interests in order to begin a discussion on co-ordination.
- To examine the impact of the Humanitarian Charter and the Code of Conduct on different relationships.
- To begin an analysis on gaps and overlaps in a delivery of services and products programme.
- To explore appropriate communication systems between organisations.

Find here a sample actor map and an answer guide for the questions in stage 2



	What an NGO might expect from others	What others might expect from an NGO
<b>UN Agencies</b>	Guidelines, country information, money	Situation reports, information about competencies and capacities
<b>National partners</b>	Country information, knowledge of potential delivery mechanisms, resources	Resources, specialist skills, training
<b>Beneficiaries</b>	Delivery mechanisms, legitimacy, information to inform programme design	Solidarity, resources to achieve a life with dignity, sustainable solutions
<b>Red Cross and Red Crescent Movement</b>	Diplomacy & protection in war zones, capacity, principles	Capacity to fill gaps in service/product delivery, follow principles
<b>Media</b>	Accurate, unsensational reporting, country information	Accurate situational information, stories
<b>Military</b>	Security, logistics, resources	Capacity to fill gaps in services, information to inform exit strategies, training
<b>Apex networks</b>	Co-ordination mechanisms, dissemination of information	Information
<b>Private Sector</b>	Money, specialist skills, tools	Ideas, social branding

<b>Donors</b>	Money, endorsement, evaluation criteria	Country information, programme information, implementation capacity plan, contacts with beneficiary population
<b>National Governments</b>	Space (and access), support, clarity	Money, resources, support, sustainable solutions
<b>Other NGOs</b>	Co-ordination, co-operation in programme planning and implementation	Co-ordination, co-operation in programme planning and implementation
<b>Host Population</b>	Structures and capacity	Appropriate delivery mechanisms

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## Optional exercise 10 - Debate questions

### 60 mins

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#### Description

A series of current debate questions relating to issues challenge the humanitarian community. The list is by no means exhaustive, and can be adapted to suit the purpose of your session.

#### Use this activity:

- at any point throughout the module to energise people
- to help the group work through a contentious topic.

Key words: resources vs. rights, humanitarian assistance or human rights protection, humanitarian principles, access, human rights violations, military, coherence etc.

#### Timing

Depends on level and interest of group, roughly 60 minutes.

#### Preparation

Photocopy handout: 'Debate questions' for each participant.

<h2>Exercise</h2>
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Debates can be run in many different ways.

#### Option 1: Cats and dogs:

- Ask participants to form two teams, one team called the cats and one team are called the dogs.
- The cats are allowed to speak on their issue for one minute and then the dogs have to respond with their issue for one minute.
- This continues until the debate is exhausted.
- Key points can be elicited in main group after the debate.

#### Option 2: Opposite number:

- Seat groups in two circles facing one another.
- The individuals sitting opposite one another have to take opposing the debate.
- They continue until one person feels their point is proved.
- This is a useful method to pull out a large number of points for a debate.

## Module 2 : Optional Exercise 10 :

### Debate Questions

Handout (2 pages)

#### Issue 1

#### When should an organisation decide not to intervene?

From "Humanitarian Challenges and Intervention – world politics and the dilemmas of help" by Thomas G. Weiss and Cindy Collins. Westview Press 1996 p108

##### Debate issues:

- 1 There are times when the level of resources required will outweigh the feasibility of humanitarian agencies assisting in an emergency.
- 2 Assisting people to achieve their rights, whatever the cost, should always be the paramount concern.

"The time has come for a major dialogue on the hard choices that will have to be made in the face of finite humanitarian resources and almost infinite humanitarian demands".

*Sadako Ogata 1993*

#### Issue 2

#### Humanitarian assistance or human rights protection?

From "Humanitarian Challenges and Intervention – world politics and the dilemmas of help" by Thomas G. Weiss and Cindy Collins. Westview press 1996 p108

##### Debate issues:

- It is always better for humanitarian agencies to concentrate on what they do best, assisting people impartially and remaining independent from the politics of a situation.
- By assisting people without drawing public attention to human rights abuses humanitarian agencies are colluding with the violators.

#### Issue 3

#### What are the barriers to adhering to the Humanitarian Charter?

##### Debate issues:

- Humanitarian agencies should compromise the humanitarian principles of the Humanitarian Charter and the Code of Conduct if it enables them to gain access to a people in need of assistance.
- Humanitarian principles should never be open to negotiation because it compromises our work and sets a precedent.

## Issue 4

### Is it realistic to ensure participation in an emergency?

#### Debate issues:

- In an emergency situation it is not realistic to set up comprehensive systems for participation, and therefore it is better not to do it at all, as results can be biased towards one side.
- It is essential to consult with people affected by disaster, even in an emergency situation, as they are the only ones who really know what type of assistance is needed.

## Issue 5

### Can humanitarian agencies and the military work together?

#### Debate issues:

- Humanitarian agencies need to work with the military and peacekeeping forces in order to maximise resources available in the field, and save more lives.
- Humanitarian agencies should not work in conjunction with either the military or peace keeping forces in order to preserve their humanitarian space enabling them more access to people in need of assistance.



## Optional exercise 11: **Protection and complementarity Case studies - Matzapan and Butanda**

### **60 mins**

#### **Description**

This exercise encourages some analysis of rights-orientated programming. The aim of the exercise is to generate thought about activities in humanitarian responses that will promote or protect human rights. The exercise is also useful for looking at complementarity of humanitarian projects.

#### **Use**

These case studies are best used (after session 4) to develop analysis skills for organisations to plan for rights based programming.

Key words: rights based programming, protection, assistance, education, promotion, advocacy, fulfilment etc.

#### **Preparation**

Photocopy one copy of each case study for every participant.

### **Exercise**

**Ask them to work in small teams of 3 to 6.**

**Give out the handout to each team:**

- 'Case study 1'.

**Choose either A or B, whichever you feel more appropriate for the experience in the team.**

**Alternatively, ask some teams to do case study A and the others case study B.**

**Explain that:**

- teams have 40 minutes to read and answer the case study questions.

**Ask teams to:**

- present their findings to the main group.

**To debrief the presentations:**

- take the key activities identified by the teams for promoting and protecting human rights
- list them on the flipchart.

**If not covered by the group, suggest activities like:**

- witnessing
- advocacy
- education
- protection
- assisting people to achieve their rights through delivery of the Minimum Standards of human requirements
- capacity building
- peacekeeping.
- prevention etc.

## Module 2: Optional exercise 11: Protection and complementarity Case study A Handout (3 pages)

### Earthquake in Matzapan

Just three months ago a devastating earthquake of 7.1 on the Richter scale struck the state of Matzapan, north-east of Juslandax. In the space of just one minute entire villages and towns were totally destroyed. The earthquake killed 15,754 people and injured 147,346. Some 350,000 houses were destroyed, one million damaged and over 700,000 people made homeless.

The response from the government of Juslandax, non-governmental organisations, volunteers and the international community has been massive. Following the earthquake, CARROT, an international NGO which has worked in other areas of Juslandax since the 1970s, decided to set up an office in Netal, the capital of Matzapan and has become actively engaged in the process of relief and reconstruction.

Matzapan is one of the most disaster prone areas of Juslandax, being regularly affected by drought and cyclones. Acute economic inequalities and a strict 'caste' system mean that many groups find themselves impoverished, politically and socio-economically marginalised and with little hope of reducing their vulnerability.

Following a needs assessment carried out by a CARROT team, a two-year programme has been designed to address the needs of the most vulnerable groups. In partnership with eight local organisations, CARROT's programme is reaching 104 villages and 10 urban pockets.

Together with the initial relief activities (for example providing food, water, shelter, medical assistance) the programme includes four main components:

- Promoting community-based rehabilitation; and creating community institutions to care for and protect people at risk.
- Coping methods for those traumatised by the disaster.
- Promoting the rights of the affected communities.
- Reconstructing houses, infrastructure and livelihoods.

This is a summary of the main activities undertaken under CARROT's programme:

- Setting up of **temporary shelters** for the most vulnerable, particularly destitute women and children (often victims of sexual exploitation in this area), the elderly and the disabled. The shelters are managed by community care volunteers from the local area together with committees of the residents. Volunteers are trained as lay counsellors, first aid practitioners, primary disability workers, and legal advisors.
- **Semi-permanent houses** are being constructed with the assistance of local skilled masons. Construction materials, chosen and purchased locally by the residents themselves, are funded by CARROT. Both temporary shelters and semi-permanent

houses are being designed taking into consideration the Minimum Standards established in the Sphere Project.

- In the immediate aftermath of the earthquake, **crisis response centres** were set up for the provision of basic relief and assistance (medical, psycho-social, food and water). Currently 104 centres in rural areas and 10 centres in urban areas are in place. These centres have a multi-purpose function:
  - Meeting place for men and women of the village.
  - Day care centres providing non-formal education, recreational support and also nutritional support to children
  - Legal resource centres for collection, analysis and dissemination of information regarding land and property rights, various compensation packages and other rehabilitation schemes offered by government and NGOs. Legal advice and legal aid is provided by volunteers. A manual containing basic information has been translated into local language and made widely available.
  - Around the centres, village committees have been constituted. These committees are encouraged to manage their own projects, and have been actively engaged in the processes of relief distribution and in the initial discussions of alternatives for long-term rehabilitation.
  - 40 women groups in different villages have been supported to start **Income Generation Activities (IGP)**: weaving, embroidery, printing, growing and selling vegetables. Most of these activities are based on traditional skills. Several supporting activities are being carried out, including training on how to make products more marketable, keeping accounts, management of micro-businesses. Food for work activities have started in 50 villages.
  - In some villages, mechanisms of **social audit** have already been established. As a result, the community is directly involved in the monitoring and evaluation of the different projects affecting them (for example, scrutiny of accounts and operations). All information and interventions are regularly shared and discussed in the village centres.
  - **Influencing agenda** In response to widespread patterns of discrimination against certain groups (e.g. lower castes and disabled people) in the distribution of relief material, a **campaign of awareness** has been launched using local and national newspapers. Groups of people affected by such discriminatory practices have been mobilised to advocating for their incorporation in the different relief distribution processes and rehabilitation schemes.
- A **survey** about housing interventions is currently being carried out. A number of issues have already been identified, such as:
  - lack of participation in decision-making and implementation processes
  - provision of inadequate materials
  - disregard of needs of groups and individuals
  - discrimination

They form the basis of CARROT's advocacy agenda.

- In line with the advocacy strategy, a group of international NGOs with presence in Matzapan (including CARROT) have recently signed a **joint statement** addressed to the government and international donors. The statement recognises both the rights of the people and the responsibility of the State and other international and national institutions to ensure that adequate assistance and protection are provided. In addition, the NGOs emphasise the importance of respecting specific housing standards in the process of emergency and rehabilitation. The joint statement includes a number of recommendations for the construction of emergency shelter. It is suggested that the models of shelter proposed should have certain characteristics regarding its design, materials used and methodology (number of Minimum Standards contained in the Sphere handbook have been included in the recommendations)..

### Task

In your teams please read the case study you have been given. Your team has 20 minutes to complete the task. Please prepare a 5 minute presentation of your key points to give to the main group.

- 1 Identify, and discuss, a number of emergency (or relief-development) responses which may contribute to the promotion and protection of human rights and humanitarian standards.
- 2 Are they consistent with the principles (explicit and implicit) in the Humanitarian Charter?
- 3 In what way?
- 4 What might be the main challenges and dilemmas arising from the implementation of such activities (for example, staff security, compromising the principle of neutrality)?

## Module 2: Optional exercise 11: Protection and complementarity Case study B Handout (2 pages)

### Peace building in Butanda

The tragic events that afflicted Butanda in 1997 resulted in the killing of tens of thousands of people, mostly civilians, from the two main ethnic groups. Furthermore, widespread inter-communal violence provoked the collapse of existing social and political institutions, particularly at community level. In a state of civil conflict since then, an estimate of over one million Butandians are still displaced both internally and across the national borders.

AIDA, which had initiated its work in Butanda in 1983, responded to the crisis, introducing important changes in its programmes and ways of working.

In the emergency programme's initial phase, village committees were established in order to manage the relief distribution process. Eventually those committees were to become a central element of AIDA's long-term community development programme. These activities include:

- **Shelter and social infrastructure rehabilitation** programmes for example, primary schools aimed to facilitate the return of displaced people from all ethnic groups to their communities of origin. AIDA has also played an active role in the process of registering of Internally Displaced Persons and returnees, in order to ensure they have access to different government schemes.
- In addition, a variety of **micro-projects** have been undertaken, ranging from group credits to initiatives in agriculture and social forestry. The aim is to reinforce the community's capacities to prioritise and manage their own projects, while encouraging cooperation.
- In order to promote trust and communication among Butandians, several projects have been implemented, such as the publication of the **Community Newsletter** MAJO and the dissemination of posters and other materials carrying messages of peace, trust and respect of human rights.
- Different **participatory tools and techniques** are also used to encourage dialogue and discussion on peace and reconciliation issues. The programme equally addresses the role of women, youth, and specific groups for example teachers as peacemakers.
- More recently, AIDA has supported the **identification and translation of laws** on human rights, women's rights and children's rights into Bitundi, the local language. The objective is to raise awareness and increase the capacity of the traditional authorities and other civil society actors to address legal issues.
- As part of a national programme, a vehicle a **mobile peace unit** has been equipped with materials and films on peace building and respect of humanitarian standards and human rights. The unit travels around the country to disseminate and share relevant information and experiences.

- A wide range of humanitarian agencies (including AIDA) signed a **Code of Conduct** for Humanitarian Assistance in Butanda. Within the wider framework established by the Red Cross/NGO Code of Conduct, it outlines the main rights and responsibilities of the different actors (for example, humanitarian imperative, accountability and neutrality).
- AIDA has frequently engaged in negotiations with different key actors (government, UN agencies, and even some rebel groups) to ensure that civilians are protected and **humanitarian assistance** reaches populations living in the most vulnerable areas.
- A number of **advocacy and influencing** initiatives were undertaken at different levels, often in the form of quiet, behind-the-scene lobbying (for example, advocacy for the release of civilians; monitoring and reporting arbitrary arrests, executions of civilians and other gross violations of human rights). AIDA has also engaged in negotiations with neighbouring governments to avoid the return of refugees to areas in which their lives and integrity is at serious risk.
- A key component of AAB's programme has been supporting the re-establishment of the institution of the Butangane. In 1999, in collaboration with the National University, AIDA initiated an extensive research project into **traditional values and institutions**. The main objective is to promote official recognition of the institution, enabling local leaders to contribute to the process of peace and development in their communities.

### Task

In your teams please read the case study you have been given. Your team has 20 minutes to complete the task. Please prepare a 5 minute presentation of your key points to give to the main group.

1. Identify, and discuss, a number of emergency (or relief-development) responses which may contribute to the promotion and protection of human rights and humanitarian standards.
2. Are they consistent with the principles (explicit and implicit) in the Humanitarian Charter?
3. In what way?
4. What might be the main challenges and dilemmas arising from the implementation of such activities (for example, staff security, compromising the principle of neutrality)?

## MODULE 2 OPTIONAL TOOLKIT

### Section D

### Humanitarian Principles and Dilemmas

**You can use this as supplementary training materials to explore wide issue arising from the Humanitarian Charter.**

<b>Activity</b>	<b>Page</b>
12: Bus stop dilemma	<b>176</b>
13: Advocacy	<b>177</b>
14: Humanitarian dilemmas	<b>185</b>
15: Humanitarianism: imperatives and principles	<b>190</b>

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## Optional exercise 12: The bus stop dilemma

### 5-10 mins

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**Description**

A simple and funny story that engages people quickly in the concept of dilemmas.

**You can use this activity to:**

- to introduce the concept of dilemmas in humanitarianism
- as an introduction to more involved exercises in principles and dilemmas.

Key words: Principles, dilemmas, solutions.

**Preparation**

No preparation required.

<b>Exercise</b>
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**Tell the following story to the group:**

- It is raining horribly.
- You are driving your car down the street, and you have space for one additional passenger.
- You pass a bus stop, and see three people standing miserably in the rain: your dentist, an old man needing to go to hospital, and a beautiful woman/man.

**Ask:**

- 'What do you do?'

**Lead a group discussion on:**

- the principles that you might use to provide options or moral guidance to solve this dilemma.

**After the discussion, you might want to suggest this solution:**

- Give the car to the dentist, ask the dentist to take the old man to the hospital, so you can be alone with the beautiful woman/man.



## Optional exercise 13: Advocacy

### 60 mins

#### Description

An exercise where participants assume the role of legal human rights advocates.

#### You can use this exercise to:

- help participants to apply key international legal instruments
- build skills
- review learning.

Key words: International Humanitarian Law, International Human Rights Law, International Refugee Law, the Guiding Principles on IDPs The exercise is partially based on Section I of UNOCHA's document: An Easy Reference to Humanitarian Law and Human Rights Law.

#### Preparation

Photocopy enough copies of the handout for each option (A-D) to enable all members of a specific team to have a copy each.

It may be useful to incorporate some human rights legal provisions contained in the domestic legal system of the country in which the workshop is taking place, for example, constitutional provisions.

#### Exercise

**Ask them to work in four teams. If there are too many participants, then ask two teams to do the same issue.**

**Give each team a different handout, A, B, C or D.**

#### Ask the teams to:

- identify which specific human rights are being violated in each scenario
- identify which legal instruments protect these rights.

#### Ensure that the teams:

- understand that a detailed and exhaustive legal analysis is not necessary.

⌚ Allow 30 minutes for the teams to prepare.

**Bring the group back together.**

**Ask each group to present their case in turn.**

⌚ Allow up to 5 minutes per presentation, followed by a few minutes of questions and answers.

⌚ Allow up to 30 minutes in total for presentations, and briefly review the exercise.

## Module 2: Optional exercise 13:

### Advocacy - Group A

#### Handout (2 pages)

#### Exercise instructions

In your team assume the role of legal human rights advocates. Discuss the case below, and identify which human rights are being violated or which humanitarian principles compromised.

On this handout there are a number of human rights provisions applicable. Prepare a brief presentation for the group advocating for the protection of those human rights using the legal provisions as supporting tools.

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#### ISSUE

Material assistance is blocked or diverted. Humanitarian personnel are not allowed, or only allowed restricted, access to the vulnerable population.

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#### Relevant legal provisions

##### A. International Human Rights Law

- Article 3 Universal Declaration of Human Rights  
Everyone has the right to life, liberty and security of person.
  - Articles 11 & 12, Covenant on Economic, Social and Cultural Rights  
Everyone has the right to an adequate standard of living including adequate food, clothing and housing [...] and to the highest attainable standard of physical and mental health.
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##### B. International Humanitarian Law

- Common Article 3 to the 1949 Geneva Conventions  
In the case of armed conflict, not of an international character, occurring in the territory of one of the Contracting (States), each party to the conflict shall be bound to apply, as a minimum, the following provisions:
  - (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion, or faith, sex, birth or wealth, or any other similar criteria.  
[...]
  - (2) The wounded and sick shall be collected and cared for.  
An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.  
[...]  
The application of the preceding provisions shall not affect the legal status of the parties to the conflict.
- Article 4, Additional Protocol II  
Children must receive the care and aid they need, particularly with regard to education, including Religious and moral education, and steps must be taken to return them to their families when they have been temporarily separated from them. Children under fifteen must not be recruited into the armed forces nor allowed to take part in hostilities. All measures must be taken, if necessary, with the consent of their

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parents or those responsible for them, to evacuate them from an area where hostilities are taking place.

- Article 11, Additional Protocol II  
Medical units and transport must be protected and respected in the same way as medical personnel as long as they are not used to commit hostile acts (additional protocol II, article 11).
- Article 14, Additional Protocol II  
Starvation of civilians is a prohibited method of combat (additional protocol II, article 14)

Certain objects benefit from special protection. This applies to objects indispensable to the survival of the civilian population.

## Module 2: Optional exercise 13:

### Advocacy - Group B

#### Handout (1 page)

#### Exercise instructions

In your team assume the role of legal human rights advocates. Discuss the case below, and identify which human rights are being violated or which humanitarian principles compromised.

On this handout there are a number of human rights provisions applicable. Prepare a brief presentation for the group advocating for the protection of those human rights using the legal provisions as supporting tools.

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#### ISSUE

Certain ethnic, religious, political group and/or minority of the population is forced by violence to leave their homes.

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#### Relevant legal provisions

##### A. International Human Rights Law

- Article 13, Universal Declaration of Human Rights; article 12, Covenant on Civil and Political Rights  
Everyone has the right to freedom of movement and residence within the borders of each state.
  - Articles 9 & 10, Convention on the Rights of the Child  
They prohibit the arbitrary separation of children from their parents.
  - Article 12 European Convention on Human Rights; Articles 22 (3 & 4), American Convention; African Charter  
A number of regional instruments prohibit the expulsion of individuals and mass expulsion targeting national, ethnic or religious groups (principle of non-discrimination).
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##### B. International Humanitarian Law

- Additional Protocol II, article 17
    1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.
    2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.
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##### C. National Human Rights Law\*

For instance:

- Article 18(1), Constitution of Sierra Leone  
No person shall be deprived of his freedom of movement, and for the purpose of this section the said freedom means the right to move freely throughout Sierra Leone, the right to reside in any part of Sierra Leone, the right to enter Sierra Leone, and immunity from expulsion from Sierra Leone.

## Module 2: Optional exercise 13:

### Advocacy - Group C

#### Handout (2 pages)

#### Exercise instructions

In your team assume the role of legal human rights advocates. Discuss the case below, and identify which human rights are being violated or which humanitarian principles compromised. On this handout there are a number of human rights provisions applicable. Prepare a brief presentation for the group advocating for the protection of those human rights using the legal provisions as supporting tools.

#### ISSUE

Civilians are executed or killed without final judgement rendered by a competent court; civilians are arbitrarily executed in their villages.

#### A: Relevant legal provisions

International Humanitarian Law

Common article 3, Geneva Conventions of 1949

"In the case of armed conflict, not of an international character [...] each party to the conflict shall be bound to apply, as a minimum, the following provisions:

Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion, or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

Violence to life and person, in particular murders of all kinds, mutilation, cruel treatment and torture;

Taking of hostages;

Outrages upon personal dignity, in particular humiliating and degrading treatment;

The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples".

Article 4, Additional Protocol II,

"All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without adverse distinction [...]

[...] the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time in any place whatsoever:

violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment

[...]

outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault [...]

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### **B: Human Rights Law**

Article 3 of Universal Declaration of Human Rights

**“Everyone has the right to life, liberty and security of person”**

Article II of the Convention on the Prevention and Punishment of the Crime of Genocide

“[...] genocide, whether committed in time of peace or in time of war, is a crime under international law [...]

(article 1 of convention on the prevention and punishment of the crime of genocide)

[...] genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

killing members of the group;

causing serious bodily or mental harm to members of the group;

[...]”

### **Article IV of the Convention on the Prevention and Punishment of the Crime of Genocide**

“Persons committing genocide [...] shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals”.

Article 5, Universal Declaration of Human Rights

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Other legal instruments prohibiting torture and inhuman and/or degrading treatment, including sexual violence

Covenant on Civil and Political Rights, article 7; Convention on the Rights of the Child, articles 19, 34, 37 & 38; Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment)

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### **C: National Human Rights Law**

For instance,

- Article 15, Constitution of Sierra Leone  
[...] every person in Sierra Leone is entitled to the fundamental human rights and freedoms of the individual, that is to say, has the right, whatever his race, tribe, place of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following:
  - a) Life, liberty, security of person [...] and the protection of law [...]
- Article 16 (1), Constitution of Sierra Leone  
“No person shall be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence under the laws of Sierra Leone, of which he has been convicted”.
- Article 20 (1), Constitution of Sierra Leone  
“No person shall be subject to any form of torture or any punishment or other treatment which is inhuman or degrading.”

## Module 2: Optional exercise 13:

### Advocacy - Group D

#### Handout (2 pages)

#### Exercise instructions

In your team assume the role of legal human rights advocates. Discuss the case below, and identify which human rights are being violated or which humanitarian principles compromised. On the accompanying handout are a number of human rights provisions applicable. Prepare a brief presentation for the group advocating for the protection of those human rights using the legal provisions as supporting tools.

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#### ISSUE

The population is subjected to inhuman and degrading treatment: women and children are subject to rape and mutilation.

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#### Relevant legal provisions

##### A: International Human Rights Law

- Article 5, Universal Declaration of Human Rights  
No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 7, Covenant on Civil and Political Rights  
No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 37, Convention on the Rights of the Child  
States Parties shall ensure that:
  - a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment [...]
- Article 2, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  - 1 Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
  - 2 No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
  - 3 An order from a superior officer of public authority may not be invoked as a justification of torture.

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##### B: International Humanitarian Law

##### Common article 3 to the Geneva Conventions

In the case of armed conflict, not of an international character, occurring in the territory of one of the Contracting (States), each party to the conflict shall be bound to apply, as a minimum, the following provisions:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion, or faith, sex, birth or wealth, or any other similar criteria.

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To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

- a) Violence to life and person, in particular murders of all kinds, mutilation, cruel treatment and torture;
- b) Taking of hostages;
- c) Outrages upon personal dignity, in particular humiliating and degrading treatment;
- d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples.

**Article 4, Additional Protocol II**

- 1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without adverse distinction [...]
- 2. [...] the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time in any place whatsoever:
  - a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment
  - e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault [...]



## Optional exercise 14: Case studies - Humanitarian dilemmas

### 60 mins

#### Description

Set of contrasting humanitarian dilemmas for participants to explore and analyse difficult humanitarian scenarios.

#### You can use this activity to:

- explore some of the dilemmas humanitarian staff and agencies face in complex emergencies
- enable participants to apply their learning to real situations
- enable participants to identify the implications of dilemmas
- stimulate debate and discussion around key issues in humanitarian work
- help participants develop strategies for dealing with humanitarian dilemmas.

Key words: humanitarian dilemmas, human rights violations, security, humanitarian principles, humanitarian responses, access, rebel factions, conflict, advocacy

#### Preparation

Photocopy one copy of each case study for every participant.


### Exercise

#### Ask them to:

- work in small teams of 3 to 6
- work through the case study on the handout
- follow the instructions on the handout
- List the human rights violations in the scenario
- List the humanitarian principles that may be compromised in a humanitarian response.
- How might this situation impact on your humanitarian response in the country?
- Prepare a short, 5 minute presentation for the main group.

#### You can choose one of two options:


- give one of the 4 case studies to each team
- select two of the most appropriate case studies and share this between the teams.

 Allow 30 minutes for teams to answer the case study question and prepare their presentation.

#### Bring the group back together.

#### Ask each group to present their case study in turn.

 Allow up to 5 minutes per presentation, followed by a few minutes of questions and answers.

 Allow up to 30 minutes in total for presentations, and briefly review the exercise.

## Module 2: Optional exercise 14: Case studies - Humanitarian Dilemmas Handout (1 page)

### 1 - Working in Countries Violating Human Rights

In March 1996 it was decreed that women would no longer have access to a number of administrative and social services or to the education system in southern Afghanistan. In October 1996 after the authorities in Kabul changed, 16 rules of conduct were decreed, one of which prohibited women from working anywhere other than in the medical profession. Even then, their work was subjected to numerous restrictions. For example, female nurses were discouraged from working alongside male doctors and male doctors could not attend to female patients. Between 30,000 and 40,000 working women were estimated to be affected by these measures.

A serious crisis occurred in September 1997. The Ministry of Public Health decreed that all women patients and female medical staff would be transferred to a special hospital, which was completely inadequate as a medical facility. It had no running water, no operating room and just enough electricity to make a few light bulbs glow. On 16 September the religious police ordered female patients at Kabul's main hospital to go to the special facility set up for women only. At most of the city's 22 hospitals, female patients were systematically refused admission.

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#### Case study exercise

In your teams please respond to the following questions. You have 30 minutes to complete the team work and then a maximum of 5 minutes to present to the main group.

1. List the human rights violations involved in this scenario.
2. List the humanitarian principles that may be compromised in a humanitarian response.
3. How might this situation impact on your humanitarian response in the country?

## Module 2: Optional exercise 14:

### Case studies - humanitarian dilemmas

#### Handout (1 page)

## 2 - Insecurity in conflict zones

On June 19 2001, two UN staff were travelling with national Red Cross colleagues in the central part of an African state. The team was conducting a pre-seeds and tool distribution, planned a few days before delivery of supplies in the same area.

The team was travelling in a well marked UN field vehicle, escorted by a military truck containing nine government soldiers. As the two vehicles entered a dry riverbed, a group of men hidden in nearby rocks opened fire. The lead military escort truck moved off at speed and stopped 500 metres away.

The UN vehicle was stuck in the line of fire. The occupants got out of the vehicle running away from the shooting. One was killed immediately and two others were wounded. The ambushers advanced upon the assessment team and shot one member at close range, looted the vehicle, tore up the UN flag and then made off as the military escort team returned.

The two UN staff and one Red Cross colleague were killed in the ambush.

The ambush took place in government territory, some 2 kilometres away from the rebel held areas. No UN assistance had been given to rebel held areas in that part of the country for over 2 years owing to denial of access by the central government.

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### Case study exercise

In your teams please respond to the following questions. You have 30 minutes to complete the team work and then a maximum of 5 minutes to present to the main group.

1. List the human rights violations involved in this scenario.
2. List the humanitarian principles that may be compromised in a humanitarian response.
3. How might this situation impact on your humanitarian response in the country?

## Module 2: Optional exercise 14:

### Case studies - humanitarian dilemmas

#### Handout (1 page)

### 3 - Dealing with rebel factions

A militia commander of a separatist faction, who until now, has operated hit and run attacks against other rebels from out of Government areas, claims to have taken control of a region with an estimated population of 10,000. He immediately demands the following from the UN Resident Coordinator in the region:

- the continued and heightened provision of humanitarian assistance to the people under his control
- ten 50kg sacks of maize from each 7 ton truck delivery
- 25% of all medical supplies
- that all humanitarian agencies operating in the region sign a Memorandum of Understanding, which includes an access agreement and capacity building support for the faction's 'humanitarian wing'.

The rebel leader has, in the past, taken international relief workers hostage and has an appalling human rights record. However such Memorandums of Understanding exist with other rebel factions in the country.

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### Case study exercise

In your teams please respond to the following questions. You have 30 minutes to complete the team work and then a maximum of 5 minutes to present to the main group.

1. List the human rights violations involved in this scenario.
2. List the humanitarian principles that may be compromised in a humanitarian response.
3. How might this situation impact on your humanitarian response in the country?

## Module 2: Optional exercise 14:

### Case studies - humanitarian dilemmas

#### Handout (1 page)

#### 4 - The ethics of contributing to a war economy

Country Y is in the grip of a six year civil war involving three rival factions and a Government whose control is limited to the capital city. Under the terms of a cease-fire and with a grant from a major donor, access to a particularly affected area of the country has been successfully negotiated. A food aid and basic health services programme has been established for a population of 25,000. However in order to reach the targeted area controlled by faction A, supplies have to traverse the area controlled by faction B.

Despite having agreed access with faction B, their militiamen are demanding 10 50kg sacks of maize from each 7 ton truck which passes. It is also rumoured that health workers are under instructions from the military commanders to hand over 25% of all medicines received for the use of the army.

In addition, reports are being received that at one food distribution site, women who have received food from WFP have been seen handing over part of their ration to local rebel soldiers. When challenged by the WFP food monitor, the local commander has explained that this was 'taxation' provided by the people to the rebel soldiers as their contribution to the fighting of the war.

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#### Case study exercise

In your teams please respond to the following questions. You have 30 minutes to complete the team work and then a maximum of 5 minutes to present to the main group.

1. List the human rights violations involved in this scenario.
2. List the humanitarian principles that may be compromised in a humanitarian response.
3. How might this situation impact on your humanitarian response in the country?

## Optional exercise 15:

### Humanitarianism - imperatives and principles

#### 45 mins

#### Description

Real scenarios from Sudan to explore decision-making in an ethical framework.

#### You can use this activity to:

- help participants to gain a deeper understanding of the consequences of their decisions
- explore International Humanitarian Law, Memorandums of Understanding and humanitarian principles in a realistic context
- enable participants to consolidate, develop and apply the learning from Module 2.

Key words: Memorandums of Understanding, humanitarian principles, Sudan, rebel factions, decision making, access, NGOs and non state actors.

#### Preparation

Photocopy for each participant these handouts:

- 'Imperatives and principles' case study
- 'Imperatives and principles' case study questions.

### Exercise

#### Ask them to:

- work in teams of 3 to 6.

#### Option 1

##### Give out the handouts:

- 'Imperatives and principles' case study
- 'Imperatives and principles' case study questions.

 Allow them 25 minutes to discuss the case study questions.

**Take feedback by asking different teams to present their discussions on different questions.**


#### Option 2

##### Give out only the case study handout:

- 'Imperatives and principles' case study.

**Ask some teams to present an argument on why they *would not* sign the memorandum of understanding.**

**Ask the other teams to present an argument on why they *would* sign the Memorandum of Understanding.**

 Allow the teams 20 minutes to prepare an argument.

 Allow them 25 minutes to debate with the opposing team.

## Module 2: Optional exercise 15:

### Humanitarianism - imperatives and principles

#### Handout (1 page)

In January 2000, all NGOs working in Southern Sudan under the umbrella of Operation Lifeline Sudan (OLS) received a letter in which the Sudan's Liberation Movement, or SPLM, required them to sign a Memorandum of Understanding with its humanitarian arm, the Fashoda Relief and Rehabilitation Association (FRRA). The text of the MoU included the requirement to work in accordance with FRRA objectives.

The deadline for signing was the end of February 2000; if agencies didn't sign they would have to leave the SPLM controlled areas in the south.

This letter followed months of negotiation between the FRRA, NGOs and key donors over the principle and text of an MoU that would govern NGO operations and outline the relationship between NGOs and the FRRA. Most agencies had indicated that they would be prepared to sign some form of agreement as long as the text was appropriate. A list of 19 points requiring change in the August 1999 MoU was submitted to the FRRA by NGOs in late 1999. The debate was long and drawn out. Most telling was a public disagreement over the MoU between the US government and EU officials, while the UN sat silently on the sidelines until close to the end.

Shortly thereafter the FRRA sent the now famous letter informing NGOs to sign the August 1999 MoU text without any of the changes they had requested, or leave SPLM controlled areas. A flurry of diplomatic exercise ensued, with NGOs and donors lobbying the FRRA to lift the 1 March ultimatum and reopen negotiations.

At the eleventh hour, even a phone call from US Secretary of State, Madeleine Albright, to John Garang of the SPLM failed to change the mind of the SPLM.

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#### **To sign or not to sign?**

By this time, individual NGOs had to decide whether or not sign the MoU. About 10 days before the deadline the FRRA informed those NGOs who intended not to sign to move their personnel from the field as it could not guarantee the safety of agencies who had not signed, but remained in the field after the deadline.

## Module 2: Optional exercise 15: Humanitarianism - Imperatives and principles Handout (1 page)

### Case study questions

Study the scenario distributed to you. Discuss the following questions in your team. Your team should be ready to share and discuss your answers in the main group.

- 1 Would you sign this agreement and, if so, why and if not, why not?
  - 2 Does this agreement reflect international human rights law? If not, what implications might this have on future activities in that particular context and elsewhere?
  - 3 In negotiating this type of agreement, what body/bodies of law should humanitarian agencies focus on? Are there additional sources of principles that might be useful?
  - 4 Is it appropriate to include both principles about how aid is to be delivered as well as human rights standards in one and the same agreement, or would you prefer separating the two? Explain the reasoning behind your answer.
  - 5 Are there other problems you notice in going through the agreement?  
Are there issues that you would do differently if you were given a second chance?
  - 6 With regard to the situation that you are working in, would a similar document be of any use? In your particular situation, what do you see as the advantages and disadvantages with adopting a similar agreement?
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