

Protection Principles



How to use this chapter

Humanitarian action consists of two main pillars: protection and assistance. Much of this Handbook, in particular the technical chapters, falls within the remit of assistance, while this chapter focuses on protection. Building on the Humanitarian Charter, it addresses the question of how humanitarian agencies can contribute to the protection of those faced with the threat of violence or coercion. More generally, it is concerned with the role of agencies in ensuring respect for and fulfilment of the rights articulated in the Charter, including access to assistance.

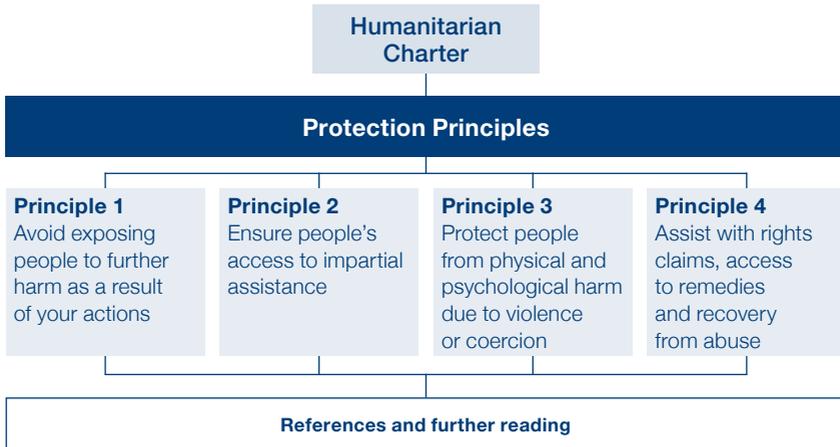
The chapter is divided into two sections:

- An **introduction**, which sets out the general responsibilities of all who are involved in humanitarian response to help protect the affected population and ensure respect for their rights.
- Four **Protection Principles**, which underpin all humanitarian action and encompass the basic elements of protection in the context of humanitarian response. They are accompanied by guidance notes, which further elaborate the role of humanitarian agencies in protection. A reference section includes other standards and materials relating to more specialised areas of protection.

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Introduction

Protection and humanitarian response

Protection is concerned with the safety, dignity and rights of people affected by disaster or armed conflict. The Humanitarian Charter summarises some of the most fundamental rights involved in humanitarian response. This chapter is concerned with the way these rights should inform humanitarian practice from a protection perspective and, specifically, the way agencies can avoid exposing the affected population to further harm and how they can help people to achieve greater safety and security.

Core humanitarian protection concerns in this context are freedom from violence and from coercion of various kinds and freedom from deliberate deprivation of the means of survival with dignity.

These concerns give rise to **four basic Protection Principles** that inform all humanitarian action:

1. Avoid exposing people to further harm as a result of your actions
2. Ensure people's access to impartial assistance – in proportion to need and without discrimination
3. Protect people from physical and psychological harm arising from violence and coercion
4. Assist people to claim their rights, access available remedies and recover from the effects of abuse.

In the context of humanitarian response, these four Principles reflect the more severe threats that people commonly face in times of conflict or disaster. The guidance notes address the related responsibilities and options for agencies, as well as particular protection needs.

The four Protection Principles follow from the summary of rights set out in the Humanitarian Charter: the right to life with dignity, the right to humanitarian assistance and the right to protection and security.



Understanding the Protection Principles

The following is a short guide to interpreting the Protection Principles:

Principle 1 (avoid causing harm) addresses those protection concerns that may be caused or exacerbated by humanitarian response. As stated in the Charter, those involved in humanitarian response must do all they reasonably can to avoid exposing people affected by disaster or armed conflict to further harm, for example by building settlements for displaced people in unsafe areas.

Principle 2 (ensure access to impartial assistance) sets out the responsibility to ensure that humanitarian assistance is available to all those in need, particularly those who are most vulnerable or who face exclusion on political or other grounds. The denial of access to necessary assistance is a major protection concern. This may include (but is not limited to) denial of secure access for humanitarian agencies to provide assistance.

Principle 3 (protect people from violence) is concerned with protection from violence and protection from being forced or induced to act against one's will, e.g. to take up arms, to be forcibly removed from a place or to be prevented from moving, or to be subjected to degrading treatment or punishment. It is concerned with preventing or mitigating physical and psychological harm, including the spread of fear and deliberate creation of terror or panic.

Principle 4 (assist with rights claims, access to remedies and recovery from abuse) refers to the role of humanitarian agencies in helping affected people claim their entitlements and access remedies such as legal redress, compensation or restitution of property. It is also concerned with helping people overcome the effects of rape and, more generally, with helping people recover from the effects of abuse – physical and psychological, social and economic.

Together with the guidance notes, the four Protection Principles describe what humanitarian agencies can and should do to help protect the disaster-affected population. But it is essential to note that the roles and responsibilities of agencies in this context are generally secondary ones. As the Charter states, such roles must be seen in relation to the primary duty of the state or other relevant authorities, e.g. parties to a conflict who control or occupy territory. Such authorities hold formal, legal responsibility for the welfare of people within their territory or control and, more generally, for the safety of civilians in armed conflict.

Ultimately, it is these authorities that have the means to ensure the affected population's security through action or restraint. The key role of agencies may be to

encourage and persuade them to do so, and to assist people in dealing with the consequences when the authorities fail in their responsibility.

Putting the Protection Principles into practice

In order to meet the standards of this Handbook, **all** humanitarian agencies should be guided by the Protection Principles, even if they do not have a distinct protection mandate or specialist capacity in protection.

The Principles are not 'absolute': it is recognised that circumstances may limit the extent to which agencies are able to fulfil them. In particular, aspects of Principle 3 may not lie within an agency's capacity. Nevertheless, the Principles reflect universal humanitarian concerns which should guide action at all times.

A number of humanitarian agencies have protection mandates or specific roles concerning vulnerable groups. Several of these agencies carry out protection activities as stand-alone programmes or projects, or framed within 'protection cluster' or 'protection sector' responses with dedicated resources and specialised staff. In 2011, the Global Protection Cluster includes coordination structures with focal points for the following particular areas of concern:

- ▶ child protection
- ▶ gender-based violence
- ▶ housing, land and property
- ▶ mine action
- ▶ rule of law and justice.

This list illustrates some of the specific areas of protection. It is not a comprehensive list and it should be recognised that there are many other specific protection concerns.

For a number of these and other protection topics, such as the protection of civilians and internally displaced persons or protection in natural disasters, specific standards and guidelines have been developed as part of initiatives other than Sphere. These are listed in the References and further reading section at the end of this chapter. This chapter is designed to complement such standards.



Different modes of protection activity

The four Protection Principles apply as much to specialist protection activity as to general humanitarian action, though the activities may be different. The protection-related activities of all humanitarian agencies can be classified broadly according to the following three modes of activity, which are inter-dependent and may be carried out simultaneously:

- ▶ **Preventive: Preventing physical threats or rights abuses** from occurring or reducing exposure or vulnerability to such threats and abuses. Preventing protection threats also includes efforts to foster an environment conducive to respect for the rights of women, men, girls and boys of all ages in accordance with international law.
- ▶ **Responsive: Stopping ongoing violations** by responding to incidents of violence and other rights abuses.
- ▶ **Remedial: Providing remedies** to ongoing or past abuses, through reparation and rehabilitation, by offering healthcare, psychosocial support, legal assistance or other services and supports, and helping the affected population to access available remedies and claim their rights.

Advocacy, whether public or private, is a common element linking these three modes of activity. The threats to the affected population arise from deliberate decisions, actions or policies and many of the related protection responses are about attempting to change such behaviours and policies. Advocacy by humanitarian agencies and others, such as human rights organisations, is central to the attempt to influence such change. There may be tensions for humanitarian agencies between ‘speaking out’ about abuses and the need to maintain an operational presence, and these tensions may dictate whether and how they can undertake advocacy on a given issue.

Where advocacy is pursued, its success generally depends on access to reliable evidence, stakeholder analysis and thorough context analysis. It is thus linked to the assessment standard in the Core Standards (see Core Standard 3 on page 61). As the guidance notes below make clear, any use of evidence such as witness statements that allows the source of information to be identified may be highly sensitive as it may put people at risk, and should be treated with the greatest care (see Protection Principle 1, guidance note 8 on page 35).

Protection Principles

Protection Principle 1: Avoid exposing people to further harm as a result of your actions

Those involved in humanitarian response take steps to avoid or minimise any adverse effects of their intervention, in particular the risk of exposing people to increased danger or abuse of their rights.



This Principle includes the following elements:

- ▶ The form of humanitarian assistance and the environment in which it is provided do not further expose people to physical hazards, violence or other rights abuse.
- ▶ Assistance and protection efforts do not undermine the affected population's capacity for self-protection.
- ▶ Humanitarian agencies manage sensitive information in a way that does not jeopardise the security of the informants or those who may be identifiable from the information.

Guidance notes

Assessing context and anticipating the consequences of humanitarian action for the safety and well-being of the disaster-affected population

1. ***Avoid becoming complicit*** in abuse of rights. There may be difficult judgements and choices, for example when faced with the decision whether to provide assistance to people who are detained in camps against their will. Such judgements must be made on a case-by-case basis, but they should always be reviewed over time as circumstances change.
2. ***Checklist:*** When analysing activities, regularly reflect on the following non-exhaustive list of questions, which could serve as a checklist, in terms of both the overall humanitarian response and specific actions:
 - What does the affected population gain by our activities?

- What might be the unintended negative consequences of our activities for people's security, and how can we avoid or minimise these consequences?
 - Do the activities take into consideration possible protection threats facing the affected population? Might they undermine people's own efforts to protect themselves?
 - Do the activities discriminate against any group or might they be perceived as doing so? Do the activities protect the rights of people who have historically been marginalised or discriminated against?
 - In protecting and promoting the rights of such groups, what will be the impact on the relationships within and beyond the community?
 - Could the activities exacerbate existing divisions in the community or between neighbouring communities?
 - Could the activities inadvertently empower or strengthen the position of armed groups or other actors?
 - Could the activities be subject to criminal exploitation?
3. **Consult different segments** of the affected population – or organisations in their trust – in assessing the positive and possible negative consequences of the overall response and specific activities.
 4. **The form in which assistance is provided** may render people more vulnerable to attack. For example, valuable commodities like dry food rations may be subject to looting and so can put the recipients at risk of harm and deprivation. Consider providing alternative forms of assistance (e.g. provision of cooked food at kitchens or feeding centres) where this is a significant risk. Affected communities should be consulted on their preferred form of assistance.
 5. **The environment in which assistance is provided** should, as far as possible, be safe for the people concerned. People in need should not be forced to travel to or through dangerous areas in order to access assistance. Where camps or other settlements are established, these should be made as safe as possible for the inhabitants and should be located away from areas that are subject to attack or other hazards.

Self-protection of affected populations

6. **Understand the means** by which people try to protect themselves, their families and communities. Support community self-help initiatives (see Protection Principle 3, guidance notes 13–14 on page 40). The ways in which humanitarian agencies intervene should not compromise people's capacity to protect themselves and others – including moving to safer areas and avoiding contact with armed groups.

7. **Subsistence needs:** Help people find safe options for meeting their subsistence needs. This might include, for example, the provision of goods such as water, firewood or other cooking fuel that helps people meet their daily needs without having to undertake hazardous and arduous journeys. This is likely to be a particular issue for older people, women, children and persons with disabilities.

Managing sensitive information

8. **Protection-related data** may be sensitive. Humanitarian agencies should have clear policies and procedures in place to guide their staff on how to respond if they become aware of, or witness, abuses and on the confidentiality of related information. Staff should be briefed on appropriate reporting of witnessed incidents or allegations.
9. **Referring sensitive information:** Consider referring information concerning abuses to appropriate actors with the relevant protection mandate. These actors may be present in other areas than where the information is found.
10. **A policy on referring sensitive information** should be in place and should include incident reports or trends analysis. It should specify how to manage sensitive information and the circumstances under which information may be referred. As far as possible, agencies should seek the consent of the individuals concerned for the use of such information. Any referral of information should be done in a way that does not put the source of information or the person(s) referred to in danger.
11. **Information on specific abuses and violations of rights** should only be collected if its intended use is clear and the detail required is defined in relation to the intended use. Such protection information should be collected by agencies with a protection mandate or which have the necessary capacity, skills, systems and protocols in place. Collecting this information is subject to the condition of informed consent and, in all cases, the individual's consent is necessary for the information to be shared with third parties.
12. **The possible reaction of the government** or other relevant authorities to the collection and use of information about abuses should be assessed. The need for the continuation of operations may have to be weighed against the need to use the information. Different humanitarian agencies may make different choices in this regard.



Protection Principle 2: Ensure people's access to impartial assistance – in proportion to need and without discrimination

People can access humanitarian assistance according to need and without adverse discrimination. Assistance is not withheld from people in need, and access for humanitarian agencies is provided as necessary to meet the Sphere standards.

This Principle includes the following elements:

- ▶ Ensure access for all parts of the affected population to humanitarian assistance.
- ▶ Any deliberate deprivation to parts of the population of the means of subsistence should always be challenged on the basis of relevant law and general humanitarian principles, as described in the Humanitarian Charter.
- ▶ Affected people receive support on the basis of need and are not discriminated against on other grounds.

Guidance notes

Maintaining access

1. **Where the affected population is unable to meet their basic needs** and the relevant authorities are unable to provide the necessary assistance themselves, the latter should not deny access for impartial humanitarian organisations to do so. Such denial may be in violation of international law, particularly in situations of armed conflict.
2. **Monitor access:** Carefully monitor the access of the affected population to humanitarian assistance, especially of the most vulnerable people.
3. **Access to humanitarian assistance and to freedom of movement** are closely linked (see Protection Principle 3, guidance notes 7–9 on page 39). The monitoring of access should consider obstacles, such as checkpoints, blockades or the presence of landmines. In situations of armed conflict, the parties may establish checkpoints, but these barriers should not discriminate between categories of affected people or unduly hinder people's access to humanitarian assistance. Special measures should be taken to ensure equality of access for affected people in remote or inaccessible regions.

4. **Special measures to facilitate the access of vulnerable groups** should be taken, while considering the context, social and cultural conditions and behaviours of communities. Such measures might include the construction of safe spaces for people who have been the victims of abuses, such as rape or trafficking, or putting in place means that facilitate access for persons with disabilities. Any such measures should avoid the stigmatisation of these groups (see Core Standard 3, guidance notes 5–6 on page 63).

Addressing the denial of assistance or of access to subsistence needs

5. **The right to receive humanitarian assistance:** As elaborated in the Humanitarian Charter, the affected population has the right to receive humanitarian assistance. This right is derived from a number of legal norms and rules that are part of international law. More specifically, international humanitarian law contains a number of relevant provisions on access to assistance and on the 'protection of objects indispensable to the survival of the civilian population' (1977 Additional Protocols I and II to the 1949 Geneva Conventions). Humanitarian agencies may consider promoting respect for the relevant laws (see also Protection Principle 3, guidance notes 3–4 on pages 38–39).



Ensuring non-discrimination

6. **Impartiality:** Humanitarian agencies should prioritise the affected people they wish to assist on the basis of their need alone and provide assistance in proportion to need. This is the principle of impartiality affirmed in the Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief (see Annex 2 on page 368 and also the Humanitarian Charter on page 19). Humanitarian agencies should not focus uniquely on a particular group (e.g. displaced people in camps) if this focus is at the detriment of another section of the affected population.
7. **Affected people do not need to have a special legal status** in order to receive humanitarian assistance and to be protected.

Protection Principle 3: Protect people from physical and psychological harm arising from violence and coercion

People are protected from violence, from being forced or induced to act against their will and from fear of such abuse.

This Principle includes the following elements:

- ▶ Take all reasonable steps to ensure that the affected population is not subjected to violent attack, either by dealing with the source of the threat or by helping people to avoid the threat.
- ▶ Take all reasonable steps to ensure that the affected population is not subject to coercion, i.e. forced or induced to act against their will in ways that may cause them harm or violate their rights (for example the freedom of movement).
- ▶ Support the affected population's own efforts to stay safe, find security and restore dignity, including community self-help mechanisms.

Guidance notes

Protection from violence and coercion

1. **The primary responsibility to protect people** from threats to their lives and safety rests with governments and other relevant authorities (see the Humanitarian Charter on page 19). In times of armed conflict, the parties engaged in conflict must protect the civilian population and those who have laid down their arms. In analysing the context in terms of the risks and threats for the population, humanitarian agencies should establish who has the legal responsibility and/or the actual capacity to provide protection.
2. **Help minimise other threats:** This includes providing assistance in such a way as to make people more secure, facilitating people's own efforts to stay safe or taking steps (though advocacy or otherwise) to reduce people's exposure to risk.
3. **Monitoring and reporting:** Humanitarian agencies should consider their responsibility to monitor and report grave violations of rights. They should also consider advocating for the rights of affected populations with relevant authorities and actors by reminding them of their obligations. They may use different modes of action including diplomacy, lobbying and public advocacy, keeping in mind the guidance on managing sensitive information (see Protection Principle 1 on page 33).

4. ***During armed conflict***, humanitarian agencies should consider monitoring the institutions that are specifically protected under international humanitarian law, such as schools and hospitals, and reporting any attacks on them. Agencies should also make efforts to reduce the risks and threats of abductions or forced recruitment that may happen in these locations.
5. ***Where explosives pose a threat to the affected population***, humanitarian agencies should coordinate with the relevant government authorities and specialised agencies on the removal of landmines and unexploded ordnance. This threat may be particularly present in situations where populations are returning to their home areas following an armed conflict.
6. ***Political, law enforcement and military actors*** play significant roles in protecting people from abuses and violations. Ultimately, it is in the political realm where solutions can be found to the underlying problems that are often at the heart of protection concerns. Security and law enforcement agencies, for example the police and military forces, including peacekeeping forces, can and should play an important role in ensuring the physical security of people at risk. Agencies can alert the relevant actors to ongoing violations. Such interventions with military contingents, their commanding officers or the authorities under whose control these forces operate, may be an essential step in stopping violations by military forces.



Freedom of movement

7. ***People should not be forced to stay*** in, or go to, a place that is not of their choice (such as a camp) nor should any other unreasonable restrictions be placed on their movement. Restrictions to freedom of movement and choice of residence should only be made if there are serious security or health reasons and should be proportional to the aim. At all times, people affected by conflict or disaster have the right to seek asylum.
8. ***Evacuations***: Humanitarian agencies should only be involved in evacuations as exceptional measures in extreme circumstances, where there is no other way of providing urgent assistance or protection in the face of severe threats to life, security and health.
9. ***Incentives to remain in a dangerous place*** should not be provided to the affected population nor should their return or resettlement be promoted when they do not have full access to all information on the conditions in those areas.

Particular vulnerabilities to violence and coercion

10. ***Vulnerable people***: Consideration should be given to individual, social and contextual factors in order to identify those most susceptible to certain risks

and threats. Special measures may be needed for those facing particular risks, including women, children, people who have been forcibly displaced, older people, persons with disabilities and religious or ethnic minority groups.

11. **Safe environments for children:** Agencies should provide children with access to safe environments. Families and communities should receive support in their efforts to keep children safe and secure.
12. **Children, especially when separated from their families** or not accompanied by an adult, can be more easily abused or exploited during disasters or conflict. Agencies should take all reasonable steps to prevent children from being recruited into armed forces and, if they are associated with armed forces, work on their immediate release and reintegration.
13. **Women and girls can be at particular risk** of gender-based violence. When contributing to the protection of these groups, humanitarian agencies should particularly consider measures that reduce possible risks, including trafficking, forced prostitution, rape or domestic violence. They should also implement standards and instruments that prevent and eradicate the practice of sexual exploitation and abuse. This unacceptable practice may involve affected people with specific vulnerabilities, such as isolated or disabled women who are forced to trade sex for the provision of humanitarian assistance.

Community-based social support and self-help

14. **Family and community mechanisms of protection and psychosocial support** should be promoted by keeping families together, teaching people how to prevent children from becoming separated from their families, promoting appropriate care for separated children and organising family tracing and reunification processes for separated children and other family members. Wherever possible, keep families together and enable people from a particular village or support network to live in the same area.
15. **Supporting community self-help activities:** Such activities include, for example, women's groups addressing issues of gender-based violence, youth groups collaborating on livelihood supports, parenting groups supporting positive interactions with children and care for parents of young children and of children with special needs, youth groups spreading protective information on threats such as landmines and community groups reaching out to women and men who have lost their partners, older people and persons with disabilities.

Protection Principle 4: Assist people to claim their rights, access available remedies and recover from the effects of abuse

The affected population is helped to claim their rights through information, documentation and assistance in seeking remedies. People are supported appropriately in recovering from the physical, psychological and social effects of violence and other abuses.

This Principle includes the following elements:

- ▶ Support affected people to assert their rights and to access remedies from government or other sources and provide them with information on their entitlements and available remedies.
- ▶ Assist affected people in securing the documentation they need to demonstrate their entitlements.
- ▶ Assist affected people to recover by providing community-based and other psychosocial support.

Guidance notes

Supporting affected people in asserting their rights

1. **The government and other relevant authorities are responsible** for ensuring that the rights of the affected population are respected and fulfilled. Whether through legal systems or other channels, humanitarian agencies should consider supporting affected populations to claim their rights.
2. **Entitlements:** Agencies should inform affected people of their entitlements both within a given aid programme and under the laws and regulations of the country in question. (Re)establishing people's rights to housing, land and property must be given particular attention.
3. **Information and consultation:** The affected population should be informed by authorities and humanitarian agencies in a language and manner they can understand. They should be engaged in a meaningful consultation process regarding decisions that affect their lives, without creating additional risks (see Core Standard 1 on page 55). This is one way of assisting them to assert their rights.



Documentation

4. ***Securing or replacing lost documents:*** Humanitarian agencies should assist the affected population in securing documentation – or replacing lost documents – in order to access their rights. People generally have rights regardless of possessing particular documentation. But in order to access the full range of entitlements, some form of documentation or identification, such as a birth certificate, marriage certificate, passport or land title, is usually required. Access to property documentation is often particularly important following a disaster but in a number of countries, ownership is not necessarily clearly documented through legal titles and can become a major point of contention. Death certificates need to be organised to avoid unnecessary financial and legal problems for relatives. Death certificates are usually not available when there is unceremonious disposal of corpses, a practice that should be avoided.
5. ***Legal documentation*** recognised by the government or relevant authorities must not be confused with documents issued by humanitarian agencies, such as registration documents, ration cards or transportation vouchers. Official documentation issued by authorities should not determine who is eligible for assistance from humanitarian organisations.

Access to remedies

6. ***People are entitled to seek legal and other redress*** from the government and relevant authorities for violations of their rights. This can include compensation for loss or restitution of property. They are also entitled to expect that the perpetrators of such violations will be brought to justice. This can play a major role in restoring trust and confidence among the affected populations. Humanitarian agencies may be able to assist people in accessing justice or refer the issues to agencies that are able to provide such support.
7. ***Healthcare and rehabilitation support:*** People should be supported in accessing appropriate healthcare and other rehabilitation support following attacks, gender-based violence and related problems (see Essential health services – control of communicable diseases standard 3 on page 316 and Essential health services – child health standards 1–2 on pages 321–323).
8. ***Where remedial assistance is available*** from non-governmental sources, people should be helped to identify and access such assistance, where appropriate.

Community-based and other psychosocial support

9. **Positive communal coping mechanisms** such as culturally appropriate burials, religious ceremonies and practices, and non-harmful cultural and social practices should be supported.
10. **Activities for children:** Where appropriate, communities should be encouraged to organise structured, supportive educational and protective activities for children through non-formal means such as child-friendly spaces. Community protection mechanisms should include self-help activities that promote psychosocial well-being.
11. **Help organise appropriate psychosocial support** for survivors of violence. Ensure that survivors have access to community social networks and self-help activities. Access to community-based social support should be complemented by access to mental healthcare.
12. **Integrated support system:** Those agencies working on psychosocial support and mental health in various sectors should collaborate to build an integrated system of support for the population (see Essential health services – mental health standard 1 on page 333).
13. **Clinical support:** Establish mechanisms for the referral of severely affected people for available clinical support.



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Mine action

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