### Frequently asked questions around the Humanitarian Charter

##### What is the rights-based approach?

When a humanitarian crisis occurs, key questions can guide a rights-based approach to humanitarian intervention:

* What rights do people have?
* What rights are people being denied?
* What opportunities exist to change people’s access to their rights?[[1]](#footnote-1)

A human rights-based approach identifies rights holders and their entitlements and corresponding duty-bearers and their obligations, and works towards strengthening the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations.[[2]](#footnote-2)

The Humanitarian Charter is in this regard a rights-based approach to humanitarian intervention: it identifies the rights of the affected population, and highlights the legal duty of the state as a primary duty bearer and the ethical duty of the humanitarian agencies towards the affected population. The Humanitarian Charter can be used to advocate with the state and with the humanitarian agencies to meet their respective legal and moral obligations.

##### The Humanitarian Charter is a rights-based approach but also mentions that assistance will be provided on the basis of needs and in proportion to needs. Are both compatible?

While the dichotomy between the rights-based approach and the needs-based approach has been frequently emphasised, statements about needs and statements about rights are quite different in kind – but the two are in no sense incompatible. ‘A statement about need (or, better, risk) may be essential to defining the ‘what’ of programming, and is of itself value neutral, and not a moral statement. A statement about rights involves a moral (and perhaps a legal) claim about entitlements, and is as significant for its identification of related responsibilities as for the rights claim itself. Sphere is an attempt to marry the two, and to combine the moral/legal force of rights statements with the specificity of needs statements.’ [[3]](#footnote-3)

##### Why is neutrality not included as one of the ethical principles of the Humanitarian Charter?

Because neutrality refers primarily to a stance taken regarding parties to an armed conflict. While humanitarian agencies agree that assistance must be impartial, and that they need to be independent from governments and interest groups, they often want to engage in campaigns and activism which are not necessarily neutral in the strict sense. The word ‘non-partisan’ captures the idea that agencies will not be party political, but they are not required to take a neutral stand if, for example, one party to a conflict is systematically denying humanitarian access and/or actively committing other human rights abuses.

##### What is the difference between impartiality and non-discrimination?

While the notion of impartiality and non-discrimination are clearly entrenched, Jean Pictet, specialist of the Red Cross Principles, distinguishes three notions in the principle of impartiality: non-discrimination, proportionality, and impartiality itself.

Non-discrimination is the absence of any objective discrimination because of race, political party, religious belief etc. Proportionality implies that any person needing assistance will receive it according to needs, and impartiality requires that no subjective distinction be made among those who suffer, all have the right to be supported, whether innocent victims or those responsible for former crimes.

 ****

Adapted from ICRC course on International Humanitarian Law



Adapted from ICRC course on International Humanitarian Law

1. Excerpt from Action Aid: ‘The rights-based approach to emergencies: A Beginners’ Guide’ [↑](#footnote-ref-1)
2. [www.ohchr.org/Documents/Publications/FAQen.pdf](http://www.ohchr.org/Documents/Publications/FAQen.pdf), page 15 [↑](#footnote-ref-2)
3. Darcy & Hofmann, “According to needs? Needs assessment and decision-making in the humanitarian sector”, HPG report 15, Sept 2003, p.27. [↑](#footnote-ref-3)