
Module 14: Human Rights and Accountability

Time: 1 hour 30 minutes

Learning Objectives

At the end of this session participants will have gained an awareness of:

1. human rights as tools for achieving a life in dignity and different legal frameworks for various types of emergencies ('natural' and man-made disasters and armed conflict)
2. a) key duty-bearers; b) key actions to support rights-holders; c) key lines of accountability available to affected populations
3. the scope and limitations of human rights work, and the concept of 'do no harm'
4. the IASC Education Cluster and other education actors' potential role in assisting key mandated human rights actors

Key Messages and Learning Points

- Human Rights define the key relationship between duty-bearers (obligations) and rights-holders (entitlements).
- The added value of a human rights approach for emergency education is the accountability mechanisms it triggers and the advocacy tools it provides.
- Human rights are universal; inalienable; indivisible; interdependent and interrelated.
- Human rights law is relevant to all emergencies, including 'natural' and man-made disasters, social and political unrest, armed conflict, pervasive violence, complex emergencies and fragile contexts. International Humanitarian Law is a *lex specialis*.
- The right to education is affirmed in treaties and conventions that make both explicit and implicit mention of education in terms of access, content, direction and quality.
- The State, or any State-like entity, has the duty to take all appropriate legislative, administrative and other actions to *respect, protect and fulfill* the right to education.
- There may also be a number of other duty-bearers, especially in armed conflict.
- The international community, under human rights law, has the obligation to lend technical and financial assistance in case the State cannot fulfil its duty.
- Rights-holders are often grouped together when we talk of them. An individual may belong to multiple groups, some marginalised and some less so.
- Lack of addressing violations in for example a natural disaster may lead to grievance that fuels an armed or political conflict (or vice-versa). Hence, human rights actions are necessary at all stages: as Conflict/Disaster Risk Reduction (C/DRR) efforts, in the emergency, during recovery stages, as well as in long-term development.
- Some human rights actions are better suited for the humanitarian response and some for the long-term response and transition to recovery and development.
- Some human rights actors and UN entities are specifically mandated and responsible for monitoring and reporting on human rights. Their work must be supported.
- Do no harm! Understanding the scope of human rights ensures that no actions or partnerships are furthering violations. Human rights work may be broad in scope, but has also limitations and may pose challenges and even dangers to some actors.
- Emergencies are also opportunities to address human rights violations, build back better and re-engage/empower marginalised groups and human rights organisations.

Session Outline

Content	Approx. Time	Instructional Activity
1. Introduction to Human Rights in Emergencies	50 minutes	Presentation and several smaller discussions
2. Introduction to Accountability	10 minutes	Presentation and small discussion
3. Identifying lines of accountability, <u>or</u>	25 minutes	Exercise
4. Identifying strategies for human rights advocacy	25 minutes	Exercise (<i>building on Module 11</i>)
5. Short feedback	5 minutes	
Total Time	90 minutes	

Note to Facilitator:

This Module 14 is a deepening of themes (human rights, a rights-based approach and accountability) already introduced in Module 1: The Rationale for Education in Emergencies.

The module can be used either with or without the concluding exercises on Accountability or Advocacy. Although it is recommended to do it with one or both exercises, if used without then ensure a little extra time to each of the different brainstorm sessions throughout the module. Similarly, if the exercises are not undertaken, a little time should be used at the end to discuss in plenary the last two questions of each Exercise, regarding violations, the role of the Education Cluster and the potential risk of contributing to causing harm. The Advocacy exercise is a continuation of Module 11: Advocacy and Policy, but may be undertaken even if participants have not been exposed to this module previously.

A shorter 30-40 minutes option

The following slides present the essence: 4, 7, 8, 9, 10, 16, 17, 18, 21, 22, 23, 24 and 27 (slides 1, 11, 19 and 25 may still serve as headings). This selection omits the interactive questions and dialogue, and the proposed exercises, but retains the essence of the module.

Preparation, Resources and Support Materials

Resources / Materials needed:

- Handout 14.1: INEE Thematic Issue Brief: Human Rights
- Handout 14.2: Key legal references and instruments on the right to education in emergencies
- Handout 14.3: General Assembly Resolution A/64/L.58 on the right to education in emergencies
- Flipcharts, markers

Preparation for this session:

- Review Session slide presentation
- Copies of Handouts, one per participant

Additional Resources:

- INEE Minimum Standards for Education: Preparedness, Response, Recovery (2010), in particular Foundational Standards on Participation and on Response Strategies, as well as Education Policy standard on Law and Policy Formulation
- Sphere Project's Humanitarian Charter (revised edition, 2011): www.spherenetwork.org/handbook/

Toolkit:

- INEE Toolkit: <http://toolkit.ineesite.org>

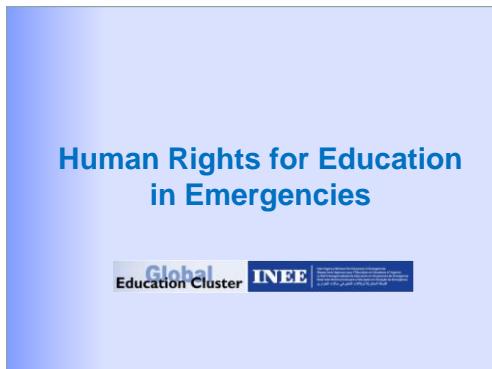
- INEE Toolkit: Human Rights Section <http://toolkit.ineesite.org/toolkit/Toolkit.php?PostID=1061>

Supplementary Material and Links:

- Office of the UN High Commissioner for Human Rights (OHCHR): www.ohchr.org
- Office of the UN High Commissioner for Refugees (UNHCR): www.unhcr.org
- International Committee of the Red Cross (ICRC): www.icrc.org
- Right to Education Project (RTE): www.right-to-education.org
- Global Coalition to Protect Education from Attack (GCPEA): www.protectingeducation.org
- Humanitarian Accountability Partnership (HAP): www.hapinternational.org

1. Introduction to Human Rights in Emergencies

50 minutes



Note to facilitators: This module covers a number of issues around Human Rights and Accountability in emergencies. The topic may appear technical, or 'legalese', but it is crucial to the work of the IASC Education Cluster, INEE and humanitarian actors. The module tries to avoid becoming too technical, prompting instead non-legally trained emergency education actors to brainstorm over what they consider human rights and the meaning of different key terms to be.

However, one of the great strengths of human rights is that it is and remains a **shared and binding language**, where great importance is attached to agreed upon definitions and universal norms – a free-for-all interpretation is therefore neither possible nor desirable!

All the technical references are in the **handouts**: 14.1 INEE Thematic Issue Brief: Human Rights and 14.2 Key legal references and instruments on the right to education in emergencies. These should be available to the participants throughout as reference points. The 3rd handout: 14.3 General Assembly resolution A/64/L.58 on the right to education in emergencies (5 pages) is a non-binding document, but a highly useful illustration of how the legal standards can be brought together, please refer to it throughout, especially in the exercises.

Contextualisation. The module can be contextualised for the audience, and the slides used as a more general introduction to the topic. It may thus be fruitful in to build on more specialised information, especially for the topic of protecting education from attack which triggers some very focused mechanism too specific to be covered by this module. Similarly for conflict and disaster risk reduction (C/DRR), more technical information is at hand in other modules.

To give space for as much participation as possible and the ability to discuss and challenge the what, how and when of human rights there are several **Quick brainstorms** at different points in the presentation. Please allow 3-5 minutes for each of these. Most slides with a 'brainstorm' are followed by ideas and suggestions for answers.

Before starting the slides

Tell the participants about the scope of the module and the choice to leave out the more 'legalese' approach (see above): this module is about getting them to reflect on human rights, not supplying them with step-by-step solutions.

Objectives

Awareness of...

human rights as tools for achieving a life in dignity and the different legal frameworks for various types of emergencies ('natural' and man-made emergencies and armed conflict)

a) key duty-bearers; b) key actions to support rights-holders; c) key lines of accountability available to affected populations

the scope and limitations of human rights work, and the concept of 'do no harm'

the IASC Education Cluster and other education actor's potential role in assisting key mandated human rights actors

1. Objectives

Read the objectives of the module from slide 1

What are Human Rights

Quick brainstorm

- Why do we have them?
- Where do they come from?
- Why are they important?
- When do they apply?
- Who is responsible?

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What are human rights

Human rights are, amongst many things:

- Not ends in themselves but means to a life in dignity
- Right to life, non-discrimination, protection, participation, **education** in itself and as an enabling right [a right that promotes other rights]
- Key relationship between obligations and entitlements; duty-bearer and rights-holder
- *Binding legal* entitlements, because they are written into national and international legislation
- Immediate and interlinked; though some (but not education!) are derogable [can be postponed] in certain emergency situations
- Mainstreamed into the 2010 edition of the INEE Minimum Standards and other materials by INEE and the Education Cluster

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Human Rights vs. political commitments

	HUMAN RIGHTS	EFA & MDGs
Who?	Obligation of the State	Political commitment of a Government
What?	Rule of Law	No remedy for lack of performance
When?	Obligations are immediate	Long-term goals
How?	Legal obligations	Monitoring
How much?	All human rights for all	Specific quantitative targets

2. What are Human Rights?

Ask participants the following questions on human rights to get them to reflect on:

- Why do we have them?
- Where do they come from?
- Why are they important?
- When do they apply?
- Who is responsible for upholding human rights?

Wait 3-5 minutes with the next slide until the brainstorm has touched upon some of these areas.

3. What are human rights - ideas

In addition to the answers offered by the participants, the following are some further ideas:

- Human rights: not ends in themselves but means to a life in dignity.
- They include right to life, non-discrimination, protection, participation, **education** (in itself and as an 'enabling' right, i.e. one that helps the realisation of other rights).
- They define the key relationship between those with obligations (duty-bearers) and those with entitlements (rights-holders).
- They are powerful as *binding legal* entitlements because they are written into national and international legislation.
- They are immediate, interlinked and mostly cannot be deviated from (the technical term for this is 'non-derogable rights').

They form the basis of the INEE Minimum Standards Handbook and others tools developed by INEE and the Education Cluster. *Direct attention to handout 14.1: INEE Thematic Issue Brief: Human Rights*

4. Human Rights vs. political commitments

Before going into key terms of human rights, and before discussing the specific challenges (and opportunities) offered by emergencies, it is instructive to look at human rights versus political commitments. In both the development and the humanitarian world, there is less understanding of what a legally binding document is. Handout 14.2 provides a list of some of these legally binding texts, all of which have provisions specifically related to education.

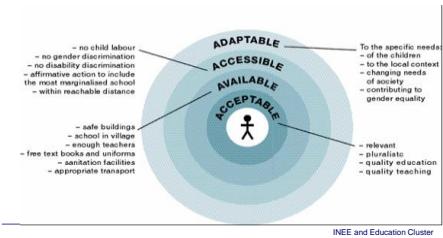
The present slide offers an easy representation of the difference in *who, what, when, how and how much* between these documents and the Millennium Development Goals and Education for All. Neither of these 2 frameworks is directly binding in a legal sense. They may reflect the standards of human rights (EFA is in a few places an almost exact echo of the Covenant on Economic, Social and Cultural Rights) and the EFA goals are good and inclusive. But no-one can hold the state accountable for its lack of implementation, unless the goals have been reflected in national legislation. The power of the international community often only lies in naming and shaming, and in the withholding of assistance etc.

However, the close affinity in words and aspirations between legal and political commitments is a good point in any advocacy (demonstrating that 193 countries have signed and ratified the UN Convention on the Rights of the Child), and may be used in funding appeals and other donor-oriented mechanisms, such as CAP, Flash and others.

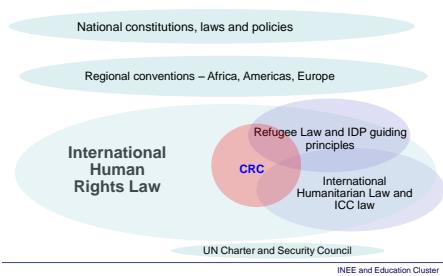
For more on using human rights in your messaging and advocacy see *Module 1: The Rational for Education in Emergencies* and *Module 11: Advocacy and Policy*

What is the right to education

Education must be the following:



The right to education is affirmed at all levels of law:



5. What is the Right to Education

The 4A headings help define the main features of an inclusive, non-discriminatory and, above all, quality education.

The INEE Minimum Standards represent a full realisation of these 4As and like the INEE Minimum Standards; these 4 headings may seem more like 'maximum', especially in emergencies. However, exactly like the INEE Minimum Standards, they build on human rights, and hence they cannot conceivably be set lower if we are to attain the level of human rights that we strive for and have internationally agreed upon. The 4As were formulated by the UN in its official commentary on the right to education (in **General Comment 13 of the Committee on Economic, Social and Cultural Rights**).

For more on the 4As, please see hand-out 14.1 INEE Thematic Issue Brief: Human Rights.

6. Where is the right to education to be found?

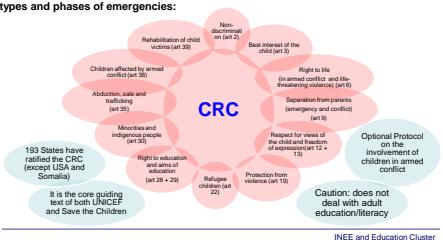
While looking at this diagram, refer also people to handout 14.1 and 14.2. The diagram shows the different levels and different types of law:

- *Different levels: national, regional, international* – there isn't necessarily a hierarchy here, though States are sovereign and will be treated as such by the UN.
- *Different types of law:*
 - Constitutions and national law
 - International human rights law - applicable at all times
 - International humanitarian law – applicable in conflict/ war
 - International criminal law – individual responsibility for war crimes, crimes against humanity etc
 - Refugees law and guiding principles on IDPs
- UN Charter and Security Council is a very particular branch of international law, seldom used, but the *Monitoring and Reporting Mechanism (MRM) for children in armed conflict* is tied to it (see Handout 14.2).
- For education in emergencies, much is covered by the UN Convention on the Rights of the Child (CRC). (**red circle**)

All of these instruments (also referred to on page 6 of the INEE Minimum Standards Handbook) form the basis of handout 14.3 General Assembly resolution A/64/L.58 on the right to education in emergencies of June 2010, which provides a good advocacy piece on what the right to education should look like in emergencies, referencing both the INEE Minimum Standards and the IASC Education Cluster.

Why is the CRC so central to our work in education in emergencies?

The CRC is not the only important treaty, but it is exemplary due to its wide range of articles that bridge the different areas of international law applicable for different types and phases of emergencies:



7. UN Convention on the Rights of the Child (CRC)

Why the CRC is central for education in emergencies?

- It covers almost all areas and types of international law.
- Its brings together in one framework all important articles on: [read from slide]
- It deals explicitly with education in Articles 28 and 29
- It is binding on 193 States (except USA and Somalia).
- Its Optional Protocol deals with children in armed conflict.
- It is the core text of the 2 most important actors on education in emergencies: UNICEF and Save the Children.
- CAUTION: the CRC has a committee of experts but it cannot make decisions binding on the State;

AND: the CRC is limited to children and youth under 18. Other conventions, esp. the ICESCR, is therefore better at addressing adult education, female literacy and life-long learning

Types of emergency

There are many types of emergencies, interlinked, one feeding the other, esp. if violations, impunity and corruption is not addressed; and no voice given to affected populations.

From a human rights perspective 2 broad categories of emergency could be proposed:



8. Types of emergency

Please note carefully: Module 1b of the EiE Harmonised Training Package distinguishes between and recommends using the following three: natural disasters, man-made disasters, and complex emergencies.

However, *from a legal point of view*, it may be useful to make a distinction between two overall categories, seen here in yellow circles. These two will serve as main categories for the rest of this Module 14.

'Natural' and man-made emergencies mainly call upon national legislation and regional and international human rights law.

Note: ['natural' is in inverted commas throughout, because no emergency is natural: a hazard is natural but the emergency stems from the vulnerability of effected populations, which can be mitigated]. Man-made emergencies also cover social and political unrest where the State is still accountable and able to act on its obligations.

Armed conflict (and significant unrest and systemic violence) is of course also 'man-made, but is also often more wide-ranging than the above categories, and the belligerent role of both the State and/or non-State armed groups/individuals call upon the *lex specialis* of international humanitarian law (IHL) – for which the threshold for applicability is quite high – and international criminal law (ICC), even if general human rights law continues to apply as well.

There are many overlaps between categories; they are often interlinked, with one leading to the other. Refugee law and principles on internal displaced persons (IDPs) are important for all categories, as is the CRC.

Human Rights in the INEE Minimum Standards

Human rights are mainstreamed into the INEE Minimum Standards Handbook as a cross-cutting issue

Human rights are especially relevant in the Foundational Standards (Domain 1) and in Education Policy (Domain 5), demonstrating why and how to integrate human rights in emergency work

The Handbook also builds on the Sphere Project's Humanitarian Charter, which echoes the international legal frameworks governing emergencies, and underscore the legal obligation of States to allow humanitarian organisation to provide protection and assistance.

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9. Human rights in the INEE Minimum Standards Handbook

Take a moment to emphasise the importance of the INEE Minimum Standards Handbook as a tool for promoting the right to education, how rights have been mainstreamed into the Handbook, and how the different domains present a framework for accountability. The INEE minimum standards are a technical education narrative on what the right to education means.

Underscore also the link to the Sphere Project's Humanitarian Charter.

Refer here to handout 14.1: INEE Thematic Issue Brief: Human Rights

Human Rights Actors and obligations

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Key obligations of State

Respect	Protect	Fulfil (facilitate & provide)
• refrain from interfering with the enjoyment of the right (to education and other rights)	• guarantee that third parties do not infringe on someone's enjoyment of the right	• take appropriate legislative, administrative, budgetary, judicial measures to fulfil the right

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Human Rights – Actors and Obligations

10. Key obligations of the State

The following will look at obligations, key duty-bearers and rights-holders. Starting with the State as main duty-bearer, and its obligations.

The State is always the prime and default duty-bearer. And so the State, or any entity or occupying force acting on its behalf, supplanting it or being in de-facto control of a territory, has primary responsibility to undertake “all appropriate legislative, administrative and other implementation measures” (CRC art 4) to *respect, protect and fulfil* the rights (to education etc) of everyone in that territory or under its jurisdiction.

The international community, under human rights law, does have the obligation to lend technical and financial assistance in case the State cannot provide. Other states may move to protect citizens from atrocities of the State or armed groups, but this is governed by strict rules of international law under the UN Charter and the Security Council.

The 3-fold obligation of the State is to:

- **Respect** = refrain from interfering with the enjoyment of the right (to education and other rights) – *this also means the freedom for private providers to operate, as long as the State guarantees that access is free and compulsory, and quality is upheld. This is especially important where NGOs may offer faith-based schooling or other alternatives that do not necessarily meet quality standards or respect the culture of students and learners*
- **Protect** = guarantee that third parties do not infringe on someone's enjoyment of the right (to education and other rights) – *arguably the most important obligation in situations of armed conflict, where attacks on education or the use of education facilities are a direct violation.*
- **Fulfil** (facilitate & provide) = take appropriate legislative, administrative, budgetary, judicial measures to fulfil the right – *this means building schools, training teachers, ensuring quality etc.*

Important note on protection: in emergency and refugee settings the word ‘protection’ has a more direct and operationalised meaning as well, and the IASC Protection Cluster (and Child Protection) is specifically mandated to lead on this, but with education actors playing an important support role.

Duty-bearers

Quick brainstorm

Who are some of the State's representatives (remember there can be many)?

When the State fails or is absent, who then become the duty-bearer?

Are they necessarily different for '*natural*' and *man-made emergencies* and for *armed conflict*?

NB: Don't confuse *legal* with *moral* responsibility!

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11. Duty-bearers

From this slide onwards, the module begins to prompt the participants to keep 2 separate records on '*natural*' and *man-made emergencies* and on *armed conflict*.

Introduce therefore at this point the two flipcharts (one for '*natural*' and *man-made emergencies* and one for *armed conflict*). Ask two participants to be responsible for writing on the flipcharts while the moderator leads the brainstorms with participants.

The facilitator should always strive to underline the many linkages between the two (or more) broad categories.

Show the slide and ask participants who are the duty bearers in emergency situations. Record the ideas on flip chart paper and add additional points that they may have missed.

Remember that on this slide there are 2 different questions: who are the State's representatives, *and* who may supplant the State (noting that the obligation remains de-facto with the State)?

Duty-bearers - ideas

The State: head of state, ministries (education and finance), parliament; judiciary, police, army; national human rights institutes/ombudsmen; district education officers, school leaders; teachers etc.

Parents, guardians; camp management; civil society leaders; community and religious leaders(?)

Other armed groups in de-facto control of territory; occupying forces, either national or international; individual military commanders and soldiers

United Nations; 'international community' [ie other states]; various NGOs acting on a UN mandate

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12. Duty-bearers - ideas

Show this slide after 3-5 minutes brainstorm on the questions of the previous slide.

Some further ideas for key duty-bearers:

- The State: head of state, ministries (education and finance); judiciary, police, army; district education officers, school leaders; teachers etc.; national human rights institutions, ombudsmen.
- Parents, guardians; camp management; civil society leaders; community and religious leaders(?)
- Other armed groups, whether or not they are in de-facto control of territory; occupying forces, either national or international; individual military commanders and soldiers
- United Nations; 'international community' [i.e. other states]; various NGOs acting on a UN mandate

Rights-holders

A rights-holder is an individual, it is he or she who has the entitlement and who may be violated.

Quick brainstorm

For both '*natural*' and *man-made emergencies* and for *armed conflict*.

- Who are the potentially worst affected?
- Are they also the most marginalised?
- Are some more vulnerable than others?
- Are some groups 'created' by the emergency?
- Are some also duty-bearers? Duties to who?

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13. Rights-holder

A rights-holder is an individual, it is he or she who has the entitlement and who can be violated.

The relationship between State (and its representatives) and individual is the defining relationship in human rights law.

However, in humanitarian law and international criminal law (see handout 14.2) there is also the relationship between one individual (ie an army commander or head of State) and another individual, a group or the collective 'humanity' in the case of crimes against humanity.

Rights-holders are often grouped together when we talk of them. Remember also that an individual may belong to multiple groups, some marginalised and some less so: a rural poor disabled girl and a disabled girl from a middle-class urban background will face very different challenges in an emergency.

Quick brainstorm, 3-5 minutes, noting down ideas on the 2 flipcharts:

For '*natural*' and *man-made emergencies* and for *armed conflict*.

- What are the potentially worst affected parts of the population? Are they also the most marginalised?
- Are some more vulnerable than others, and are some groups 'created' by the emergency?
- Are some also duty-bearers? Duties to whom?

Rights-holders in '*natural*' and man-made emergencies- ideas

Particularly vulnerable groups:

Children and orphans:

- in affected and high-risk areas;

- in need of psychosocial support;

- in rural areas and removed from power and from supply lines;

Women, girls, marginalised, ethnic groups;

Unemployed youth and others in danger of losing opportunities;

Teachers undermined by untrained supply teachers;

IDPs and refugees (the latter under UNHCR mandate)

Poorest members of society often have the least capacity to recover

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14. Rights-holders and Vulnerable groups in '*natural*' and man-made emergencies

Show this slide (and the following) after 3-5 minutes brainstorm on the questions of the previous slide.

Some further ideas for particular vulnerable groups in '*natural*' and man-made emergencies:

- children in affected areas and those living in potential high-risk areas;
- orphans and children in need of psychosocial support;
- populations living in rural areas and removed from seats of power and decision making, or from supply lines;
- women, girls, unemployed youth and others in danger of being pushed further to the margins of society
- teachers whose rights are undermined by untrained supply teachers;
- IDPs and refugees (ensuring access, quality and recognition of qualifications in host countries)
- Poorest members of society have often the least capacity to recover.

Can refer to the INEE Minimum Standard Handbook guidance notes for support in identifying vulnerable groups.

Rights-holders in armed conflict - ideas

Particularly vulnerable groups:

- children in conflict zones;

- war-orphans;

- child soldiers;

- marginalised ethnic groups;

- women and girls;

- teachers and political activists;

- aid-workers and human rights activists themselves;

- refugees (under UNHCR mandate) and IDPs

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15. Rights-holders and Vulnerable groups in armed conflict

Show this slide (and the previous) after 3-5 minutes brainstorm on the questions of the 'rights-holders' slide.

Some further ideas for particular vulnerable groups in *armed conflict*

- children in conflict zones;
- war-orphans;
- child soldiers;
- internally displaced;
- marginalised ethnic groups;
- women and girls;
- teachers and political activists;
- aid-workers themselves (for ransom or for being seen to meddle in the conflict and talking about human rights!);
- IDPs and refugees (ensuring access, quality and recognition of qualifications in host countries)

Can refer to the INEE Minimum Standard Handbook guidance notes for support in identifying vulnerable groups

Facilitator to highlight here again

- the many overlaps in vulnerable groups (refugees/IDPs; girls and women; ethnic groups etc) between the two categories.
- how the lack of action in addressing violations against one group in a natural disaster may lead to grievance that can fuel an armed or political conflict (and vice-versa).
- the need to recognise that some groups are multiply discriminated against.

Human Rights in emergencies

Human Rights do not go away, on the contrary:

- Concerns and violations increase, risks are higher
- Legal framework is strong at national regional and international level
- Human rights actions need to be prioritised: before/during/later
- Actors become more numerous; risk of impunity grows
- Human rights work become more dangerous

Emergencies are also opportunities to address HR violations, build back better and re-engage/empower marginalised groups

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16. Human rights in emergencies

An oft-voiced concern is that human rights do not apply in emergencies, because there are more important things to attend to. This is not true!

However, humanitarians do fear that too much human rights-talk will limit the humanitarian space in which they work: they may be placed under observation and risk being asked to leave the country or it may pose a danger to their personal safety. This concern is legitimate and should be discussed openly.

Human rights do not go away, on the contrary:

- Concerns and violations increase, risks become higher
- Legal framework remain strong: human rights law, humanitarian law, criminal law (see handout 14.2)
- Actions need to be prioritised: before/during/later
- Actors become more numerous; risk of impunity rises
- Human rights work become more dangerous
- **But emergencies are also opportunities to address ingrained human rights violations, build back better and re-engage/empower marginalised groups and human rights organisations**

Often required by donors and the UN is the argument that education *must be* life-saving in its offering of safe-spaces and continuity etc. However, highlighting this function of education should not be to the detriment of education as a right-in-itself that sustains lives and the quality of life in many different ways.

Human Rights Time for Action

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Human Rights – Time for Action

Human Rights actions for different emergencies

Challenges to and violations of the right to education will differ according to emergency and time of intervention.

Available and appropriate Human Rights actions will change too

Quick brainstorm:

What *immediate* and *long-term* human rights / legal actions can we (education actors) contribute to in:
- 'Natural' and man-made emergencies
- Armed conflicts
Where are the major differences? Major overlaps?

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17. Human Rights actions for different emergencies

From challenges and actors, the module now turns to some of the actions available. However, keep in mind that the core work of the Education cluster and education actors (to secure the right to education for as many as possible) in itself is an important human rights action! Yet, the more *legal* actions may be what the facilitator wants to look for in the following brainstorm.

It is also important here to introduce (if it has not already come up in the discussions) the concept of *timing and phases*: some human rights actions are better suited in the immediate humanitarian response (first 72 hours to 2-3 weeks) and some for the long-term response and transition to recovery. This is especially important as there are different legal frameworks: humanitarian law will at one point cease to be applicable (once conflict/occupation is over), but human rights law continues to be applicable (it has never 'gone away') and refugee law may continue as well. National laws and policies will also resume once a state of emergency has been called off. It is therefore important to know when different legal frameworks apply or if there are derogations to the law.

[A derogation means the legal possibility of postponement in the implementation of a right or of a duty. There are some derogations, especially in armed conflict, but none directly applicable to education].

Quick brainstorm of 3-5 minutes, filling out the 2 flipcharts:
What *immediate* and *long-term* human rights / legal actions can we (as Cluster and education actors) contribute to in:
▪ 'Natural' and man-made emergencies
▪ Armed conflicts
Where are the major differences? Major overlaps?

Human rights actions for 'natural' and man-made emergencies - ideas

Both immediate and long-term:

- create safe learning spaces
- promote inter-cluster work
- assist government (but avoid supplanting it as duty-bearer)
- fight to keep (or to install) education as free and compulsory
- help build strong mechanisms for monitoring and evaluation
- help NGOs address corruption, crime and misuse of power
- lend education expertise to law and policy reform if needed
- identify and empower most marginalised to voice and claim rights
- promote DRR and build-back-better efforts

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18. Human Rights actions for 'natural' and man-made emergencies

Show this slide (and the following) after 3-5 minutes brainstorm on the questions of the previous slide.

Some ideas (both immediate and long-term):

- create safe learning spaces
- promote inter-cluster work
- assist government (but avoid supplanting it as duty-bearer)
- advocate to keep (or to install) education as free and compulsory
- help build strong mechanisms for monitoring and evaluation
- help NGOs address corruption, crime and misuse of power
- lend education expertise to law and policy reform if needed
- identify and empower most marginalised to voice and claim rights
- promote DRR and build-back-better efforts

Encourage participants to learn more on DRR from Module 12: Risk Reduction.

A major part of human rights work is assistance in building transparent and accountable institutions, both within government, military and judiciary, and as independent watch-dogs on government, military and judiciary. This work is often more long-term and not something education actors should prioritise in the first phases, but foundations may be laid in the early recovery phase, where windows of opportunity for improved institutions may arise, opportunities that later will not be open or that were not open before the emergency.

Human rights actions for armed conflict - ideas

Both immediate and long-term:

- create safe learning spaces
- fight to keep (or to install) education as free and compulsory
- prioritise the protection and safety of learners and schools
- push for law and military codes to ban attacks on education
- challenge impunity by assisting criminal investigations or UN in gathering evidence and reporting on attacks
- promote conflict mitigation and peace-building dialogue
- build capacity of institutions, local human rights defenders and judiciary

INEE and Education Cluster

19. Human Rights actions for armed conflict

Show this slide (and the previous) after 3-5 minutes brainstorm on the questions of the 'actions for different emergencies'-slide.

Some ideas (both immediate and long-term):

- create safe learning spaces
- fight to keep (or to install) education as free and compulsory
- prioritise the protection and safety of learners and schools
- push for law and military codes to ban attacks on education
- challenge impunity by assisting criminal investigations or UN in gathering evidence and reporting on attacks and, where applicable, contribute to the *Monitoring and Reporting Mechanism (MRM) for children in armed conflict*
- promote conflict mitigation and peace-building dialogue
- build capacity of institutions, local human rights defenders and judiciary

Encourage participants to learn much more from the specific Protecting Education-work being done by the Global Coalition to Protect Education from Attack and the IASC Education and Protection Clusters. See also Module 8 Links to other sectors

Human Rights and the education actors - ideas

What you do may seem terribly insignificant, but it is terribly important that you do it anyway (Gandhi)

Do no harm!

An awareness of human rights help to ensure that no actions or partnerships are furthering violations

Always prioritise impact on the most marginalised or worst affected

Understand who local (Nat. HR Institute) or international human rights actors are (Amnesty, HRW etc).

Reach out to them, learn from their legal and local expertise, share data where appropriate

Understand who in the UN (and ICRC) are responsible for monitoring and reporting on human rights.

Establish relationship, invite / attend meetings, support their work, share your assessment and data.

For protection: work with the protection cluster and those mandated to report on UN Monitoring and Reporting Mechanism for Children

For C/DRR: work with human rights organisations to jointly offer contextualised and locally adapted capacity building on education rights to judiciary, ministries, national and international partners

INEE and Education Cluster

20. Human Rights and education actors - ideas

At this point it may be relevant to look at the work of the education cluster and members and how their work supports Human Rights. This slide prompts the participants to start thinking of how we use Human Rights, and, with Gandhi, make us reflect on its importance.

First thing first: **the IASC Education Cluster is NOT a mandated human rights body**. It does not in-itself have responsibilities to monitor or act on violations, even if some of its members may have, especially the Ministry/State. In the situations where the *Monitoring and Reporting Mechanism (MRM) for children in armed conflict* is activated (see handout 14.2) it is often cluster members that contribute to the reporting to the Secretary General.

The Cluster Lead Agencies, mostly UNICEF and Save the Children, will have status of 'provider of last resort', charged to do their utmost to address gaps in humanitarian response where no other agency is able to do so. However, this is not a legally binding obligation and confusion does persist around the exact nature and meaning of the obligation!

Secondly, there are a couple of important points to remember:

- Do no harm! By understanding fundamentals of human rights you ensure that no actions or partnerships are furthering violations
- Always prioritise impact on the most marginalised or worst affected
- Understand who the local and international human rights actors are (Amnesty, HRW etc), reach out to them, learn from their legal and local expertise.
- Understand who in the UN (OHCHR, UNHCR, OCHA, UNICEF) and ICRC are mandated and responsible for monitoring and reporting on human rights. Establish a relationship, invite to and attend meetings, support their work, make available assessment findings and data.
- For protection: work with the protection cluster and those mandated to report on the *MRM for children in armed conflict*
- For C/DRR: work with human rights organisations to jointly offer contextualised and locally adapted capacity building on education rights to judiciary, ministries, and national partners

Depending on the time, the facilitator may want to open a discussion here on the opportunities that human rights provide for the Cluster and its member agencies, not least the opportunity to use human rights frameworks to advocate for inclusion or better / more comprehensive representation of education within humanitarian response. However, there will also be an opportunity for participants to reflect on this in the exercise on accountability. And the following slide will also give some ideas for practical applicability in the work in emergencies.

Limitations and challenges

*Securing the right to free quality education is what we and our partners try to do
- we are therefore all human rights activists!*

But some situations call for greater caution:

- Consult local UN resident/security before and during; do a risk analysis, pros vs' cons.

- Duty-bearer is the right term and donors encourage it, but at times it is better to say accountability rather than *human rights*, ie: be sensitive if you must.

- Human rights activist may be targeted, their lives put at risk. Keep this always in mind when partnering with esp. local NGOs.

- The national judiciary, set up to help people seek justice, may be corrupt and serve the powers it should hold to account.

- The UN system is removed, slow and with little real power - and governments know it!

INEE and Education Cluster

21. Limitations and challenges

Following upon the previous 2 slides, it is clear that assisting the government and other duty-bearers to secure the right to free quality education is the core work of the Cluster and its partner – everyone is thus a human rights activist!

However, and as seen in the previous slides, there are different approaches, for different situations, and also different consequences of human rights actions. A mature understanding that human rights work has many limitations and comes with tangible dangers is therefore necessary (the facilitator should also refer here to the possibly shrinking of the humanitarian space).

A few considerations and suggestions:

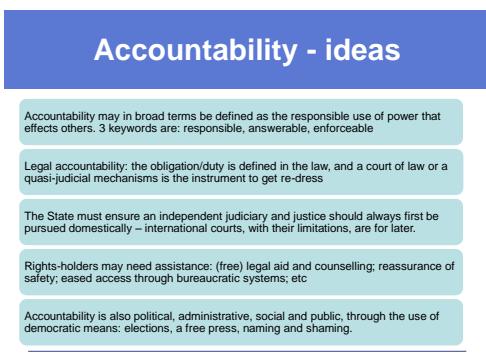
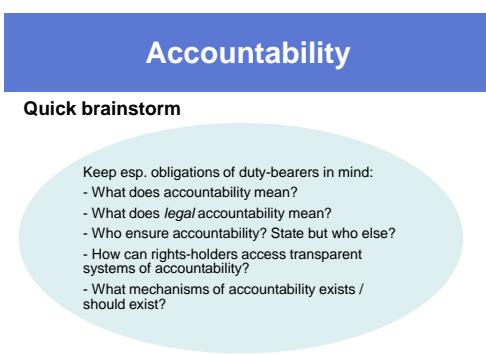
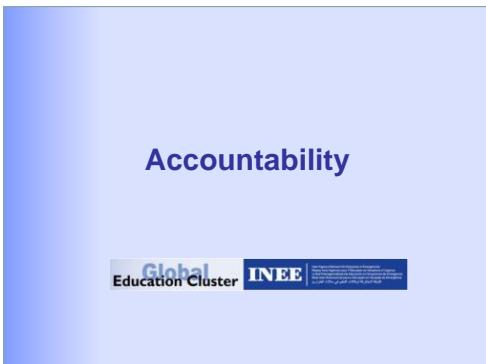
- Consult local UN resident and security; do a risk analysis, pros vs' cons.
- Duty-bearer is the right term and donors encourage it, but some governments don't want to hear it and you may risk your operational freedom and be asked to leave! At times it is better to say accountability rather than human rights or to reference the INEE Minimum Standards as opposed to more direct legal references, i.e.: be sensitive if you need to.
- Human rights activist may be targeted, their lives put at risk. Keep this always in mind when partnering with esp. local NGOs.
- The national judiciary, set up to help people seek justice, may be corrupt and serve the powers it should hold to account.
- The UN system is removed, slow and with little real power.

But human rights work is also a powerful legal (and moral) imperative, which can be difficult to ignore. Thus, while seeking out and supporting the mandated (and internationally protected) human rights actors, it may also be the straw that breaks the camel's back, allowing for individual redress as well as better collective human rights protection in the future.

22. *Wrap up this presentation, gather the different flipcharts and display them on the wall for everyone to see and to refer to in the next session and exercise*

2. Introduction to Accountability

10 minutes



1 Accountability

This short session, which may also serve as a stand-alone, is designed to allow the participants to use the reflections and terminology of the previous session in their thinking about accountability.

It also serves as introduction to one of the following exercise on accountability where participants will work in groups on further defining lines and mechanisms for accountability available to identified groups in either '*natural*' and *man-made emergencies* or *armed conflict* situations.

Noting down on flip charts the ideas generated during this short session and putting them on the wall afterwards (together with the flipcharts from the previous session) will aid the groups in the exercise.

2 What is accountability

Quick brainstorm of 3-5 minutes.

Keeping esp. obligations of duty-bearers in mind:

- What does accountability mean?
- What does *legal* accountability mean?
- Who ensures accountability? State but who else?
- How can rights-holders access transparent systems of accountability?
- What mechanisms of accountability exist / should exist?

3 Accountability – ideas

The following are only some ideas to answer the questions posed in the previous slide.

- Legal accountability: the obligation/duty is defined in the law, and a court of law or quasi-judicial mechanisms is the instrument to get re-dress. *i.e. for our purposes accountability is the acknowledgment of a legal responsibility and process through which to assume that responsibility*
- The State must ensure an independent judiciary – if not then international courts may be the option.
- Rights-holders may need assistance: (free) legal aid and counselling; reassurance of safety.
- Accountability is more than law and litigation! It can be political, administrative, social and public accountability, nationally or internationally, through the use of democratic means: elections, a free press, naming and shaming.
- INEE Minimum Standards Handbook as a framework for accountability—by following the Handbook, actors can be accountable to themselves and their partners and to the community as to whether they are providing access and quality education.

3. Exercise: Identifying lines of accountability or identifying rights-based advocacy strategies

25 minutes

Direct attention again to the 3 handouts and encourage their use in the exercises:

- 14.1 INEE Thematic Issue Brief: Human Rights
- 14.2 Key legal references and instruments on the right to education in emergencies
- 14.3 General Assembly resolution A/64/L.58 on the right to education in emergencies

EXERCISES –

Accountability or Advocacy

Analyse lines of **accountability** for claiming the right to safely access quality education in a) 'Natural' and man-made emergencies, or b) Armed conflict

Suggest **advocacy** strategies for claiming the right to safely access quality education in a) 'Natural' and man-made emergencies, or b) Armed conflict

- 1 – identify 1 heavily effected / marginalised group at 1 defined moment of the emergency
- 2 – what human rights violations may it be the victim of?
- 3 – what accountability mechanisms (legal/non-legal; national/international) can it access?
- 4 – what are opportunities and risks for the group?
- 5 – what role of Ed. Cluster and others in assisting or in 'doing no harm'?

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- 1 – identify 1 heavily effected / marginalised group at 1 defined moment of an emergency
- 2 – what human rights violations may it be the victim of?
- 3 – what rights-based advocacy strategy/message can support this group?
- 4 – how is it carried out and who is the target audience?
- 5 – how can the Ed. Cluster and other education actors lead on this advocacy or contribute to 'do no harm'?

EXERCISE - Accountability

Analyse lines of accountability for claiming the right to safely access quality education in a) 'Natural' and man-made emergencies, or b) Armed conflict

- 1 – identify 1 heavily effected / marginalised group at 1 defined moment of the emergency
- 2 – what human rights violations may it be the victim of?
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- 4 – what are opportunities and risks for the group?
- 5 – what role of Ed. Cluster and others in assisting or in 'doing no harm'?

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4 If Accountability

5 Divide the participants into groups, with equal numbers working on 'natural' and man-made emergencies or on armed conflict. Explain to the participants that they will apply the ideas on accountability generated in the previous short session, but they are also expected to consider the different ideas from the first session, as displayed on the flipcharts on the wall.

6 Show the slide **EXERCISE - Accountability** and explain what each group should try to do:

- 1 – identify 1 heavily effected / marginalised group at 1 defined moment of the emergency
- 2 – what human rights violations may it be the victim of?
- 3 – what accountability mechanisms (legal/non-legal; national/international) can it access?
- 4 – what are opportunities and risks for the group?
- 5 – what role of Ed. Cluster and others in assisting or in 'doing no harm'?

Each group needs to assign a spokesperson and to capture the discussion on a flipchart

Give the groups **20 minutes** to consider the questions and then report back to plenary for the **5 minute** feed-back session..

7 In case the groups have only completed the first half of the questions, and if time allows, the moderator should steer the discussion on to the last questions on the role of the education actors and the IASC Education Cluster.

This discussion may serve as a conclusion for the module.

If Advocacy (building on Module 11: Advocacy and Policy)

8 Divide the participants into groups, with equal numbers working on 'natural' and man-made emergencies or on armed conflict. Explain to the participants that they will utilise the ideas on human rights generated in all the previous sessions, as displayed on the flipcharts on the wall.

9 Show the slide **EXERCISE - Advocacy** and explain what each group should try to do:

- 1 – identify 1 heavily effected / marginalised group at 1 defined moment of the emergency
- 2 – what human rights violations may it be the victim of?
- 3 – what rights-based advocacy strategy/message can support this group?
- 4 – how is it carried out and who is the target audience?

EXERCISE - Advocacy

Suggest advocacy strategies for claiming the right to safely access quality education in a) 'Natural' and man-made emergencies, or b) Armed conflict

- 1 – identify 1 heavily effected / marginalised group at 1 defined moment of an emergency
- 2 – what human rights violations may it be the victim of?
- 3 – what rights-based advocacy strategy/message can support this group?
- 4 – how is it carried out and who is the target audience?
- 5 – how can the Ed. Cluster and other education actors lead on this advocacy or contribute to 'do no harm'?

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