

Centre of Competence on Humanitarian Negotiation

CONCEPT PAPER

Executive Summary

This concept paper presents the conclusions of a preliminary consultation on the creation of a Centre of Competence on Humanitarian Negotiation conducted within an informal working group composed of representatives of UNHCR, WFP, MSF, HD and the ICRC. These consultations, hosted by the Swiss Permanent Mission to the UN in Geneva, built on an initiative introduced by the ICRC to enhance informal exchanges and peer learning among professionals engaged in humanitarian negotiations and mediation in situations of armed conflict and other complex emergencies.

Participants to the consultation recognized the need to establish a privileged space to facilitate the sharing of experience among humanitarian professionals engaged in frontline negotiations in a critical and reflective manner.¹ Access to vulnerable populations in complex emergencies has become increasingly challenging. This access depends largely on the ability of humanitarian agencies and organizations to negotiate their presence and terms of operations with various state and non-state actors. Yet, the highly contextual, confidential and personal nature of frontline negotiations limits opportunities to learn from the experience and perspectives of other frontline negotiators. The core objectives of the proposed Centre of Competence are to:

1. Facilitate critical reflections, learning and informal peer exchanges among frontline negotiators on the challenges, dilemmas and strategies of humanitarian negotiations;
2. Support the development of a stronger analytical framework and greater capacity for effective humanitarian negotiation and mediation practice; and,
3. Foster a community of practice among humanitarian professionals engaged in frontline negotiations.

The Centre of Competence on Humanitarian Negotiation will be established as a central hub and facilitator of these exchanges, in a strategic partnership between UNHCR, WFP, MSF, HD and the ICRC. The ICRC will host and manage the development phase of the Centre with the support and guidance of other strategic partners for a period of five years during which the strategic partners will decide on the opportunity of creating an institutional framework for this project.

The Concept Paper summarizes some of the challenges and dilemmas currently faced by humanitarian negotiators and articulates the Centre's mission, strategic objectives and governance structure as identified by the working group. It concludes with a presentation of the next steps in the current process.

1. BACKGROUND

¹ For the purposes of this initiative, humanitarian negotiations are defined as a series of interactions with parties to a conflict and other relevant actors aimed at establishing the presence of a humanitarian organization in the conflict environment, ensuring its access to vulnerable groups and facilitating the delivery of assistance and protection support. These negotiations, also referred to as "frontline negotiations," take place at the field level for the most part and involve both state and non-state actors. There is an advocacy component relative to the protection of victims as well as a transactional component in setting the logistical and tactical parameters of humanitarian operations.

This concept paper was prepared against a backdrop of extensive deliberations on humanitarian negotiations among agencies and professionals alike.² As humanitarian organizations expand their operational outreach and engage with a growing number and variety of actors in conflict environments, the task of negotiating access has become a central part of their activities and the crucial point at which humanitarian principles intersect with field practices.

a) *Challenges and dilemmas faced by humanitarian negotiators*

The ability of humanitarian organizations to negotiate access to vulnerable groups is crucial for the overall success of humanitarian endeavours. All major humanitarian organizations see negotiation processes and acceptance strategies as essential for gaining and maintaining access to people in need.³ Yet, humanitarian negotiations are inherently challenging, seeking to provide life-saving assistance and protection through negotiated agreements with often unpredictable actors under considerable time pressure as well as political, security and institutional constraints. Frontline negotiations are inherently distinct from other types of negotiations given the parties' negotiation objectives and unique conflict environment.⁴

International humanitarian law and the underlying humanitarian principles provide an important framework for such negotiations. Humanitarian negotiations imply a shared sense of responsibility among the parties toward reaching the desired humanitarian outcome as well as a common understanding of each other's motivations and goals.⁵ Humanitarian agencies have produced a number of policy documents in recent years emphasizing the role of humanitarian law and principles in negotiating access.⁶ These documents are a response to growing concerns about the relevance of humanitarian programmes and the politicization of humanitarian action in some conflict situations.⁷

However, some of these negotiations take place in situations where the parties do not abide by, or even accept, these legal principles. In these cases, the parties' positions – which reflect their respective interests, values and norms – must give some ground in pursuit of a pragmatic arrangement serving the interest of all sides.⁸ In other words, **the political nature of humanitarian negotiations cannot be overstated.** Frontline negotiators therefore need to be

² For a comprehensive review of the current literature, see R. Grace, "Preparatory Review of Literature for the ICRC Practice and Network Platform" (<https://goo.gl/xZHs0B>).

³ See the "Evaluation and review of humanitarian access strategies in DG ECHO-funded interventions" on the European Commission website (http://ec.europa.eu/echo/files/evaluation/2012/GPPi_Access-Report.pdf).

⁴ See "Humanitarian Negotiations with Armed Groups," p. 50, on the OCHA website (<https://docs.unocha.org/sites/dms/Documents/HumanitarianNegotiationswArmedGroupsManual.pdf>).

⁵ L. Brahimi, "Forward," in L. Minear and H. Smith (eds.), *Humanitarian Diplomacy: Practitioners and Their Craft*, United Nations University, Tokyo, 2007, pp. xiv-xv.

⁶ See "Humanitarian Negotiations with Armed Groups" on the OCHA website (<https://docs.unocha.org/sites/dms/Documents/HumanitarianNegotiationswArmedGroupsManual.pdf>); "Humanitarian Negotiation: A Handbook for Securing Access, Assistance and Protection for Civilians in Armed Conflict," on the Centre for Humanitarian Dialogue website (http://www.hdcentre.org/uploads/tx_news/188HumanitarianNegotiation.pdf); and "Humanitarian Access in Situations of Armed Conflict: Field Manual,"

(http://www.cdint.org/documents/CDI_Access_Manual_Web_Dec5.pdf)

⁷ M. Glaser, "Negotiated Access: Humanitarian Engagement with Armed Non-state Actors," on the Harvard Kennedy School website (<https://www.eisf.eu/wp-content/uploads/2014/09/0067-Glaser-2003-Negotiated-access.pdf>).

⁸ S. Ratner, "Law Promotion Beyond Law Talk: The Red Cross, Persuasion, and the Laws of War," *The European Journal of International Law*, Vol. 22, No. 2, 2011, p. 478.

able to function at both levels, operating with an acute sensitivity to political interests and a commitment to the principled character of humanitarian assistance and protection.

b) Negotiators' ability to draw on professional support and shared expertise

Humanitarian organizations' access to groups affected by armed conflict depends directly on the ability of their representatives to negotiate acceptable terms of access in highly volatile environments. Despite this, **limited efforts have been invested in gathering, analysing and sharing information on negotiation practices** within and among experienced humanitarian negotiators. As a result, frontline negotiators often work in isolation from each other and enjoy only limited access to information and discussions on peer practices involving various regions, themes and even generations of negotiators.

That said, professionals engaged in humanitarian negotiations increasingly recognize commonalities – both within a given conflict and across conflict situations – in negotiations with reluctant states or complex armed groups. In addition, the multiplicity of humanitarian actors and their growing interdependence on the ground imply a greater need for coordination and sharing of experience in assistance and protection negotiations. Indeed, **negotiators are increasingly aware of the impact of other negotiation efforts on the outcome of their own**. More than ever before, the ability of humanitarian organizations to maintain effective access to vulnerable groups in Syria, Ukraine, Somalia, the occupied Palestinian territory and the Central African Republic requires a greater degree of concerted efforts based on a common negotiation culture and connections among negotiators and their organizations.

A number of barriers stand in the way of setting up a space for these (even informal) exchanges:

- The first barrier is geographical: Most "frontline negotiations" are conducted deep in the field. **Day-to-day negotiations often take place far from regional centres and headquarters. National staff play a critical role in this regard, especially in negotiations in remote areas**; their negotiating experience is rarely captured and processed within the organization or discussed within institutional policy circles.
- The second barrier is temporal: With many conflicts becoming protracted, **the turnover of professionals at the field level is a major impediment to the ability of organizations to maintain an ongoing relationship with the relevant parties and to build institutional memory regarding past positions and negotiation practices**. Working mostly in emergency mode, humanitarian negotiators rarely have access to useful information about past negotiations, challenges and strategies while their counterparts usually have extended knowledge about the strength and weaknesses of the organization's negotiation positions. Humanitarian negotiators would gain considerably from being able to tap into informal network of negotiators, including former negotiators who may have critically important information to share about a given conflict, parties to the conflict and related issues.
- The third and final barrier is institutional: As in all negotiations, humanitarian negotiations require a high level of trust and confidentiality among the parties to succeed. As a result, **information on real-life negotiation processes is rarely shared within or between organizations**. There are few documented analyses of specific negotiation efforts or lessons learned from them.

2. STRATEGIC OBJECTIVES OF THE CENTRE

The core mission of the Centre will be to provide the necessary space and informed support to humanitarian negotiators to help them improve their practice through the sharing of experience.

The strategic objectives of the Centre will be three-fold:

- a) To promote critical reflection, learning and exchanges among peers

The Centre will offer a safe, informal and neutral space to discuss and review humanitarian-negotiation and conflict-mediation processes in the light of current challenges and constraints in regions affected by conflicts. In fostering peer exchanges among frontline negotiators, the Centre will aim to support individual negotiators and their organizations in addressing the growing challenges and dilemmas of operating in complex emergencies.

- b) To develop a stronger analytical framework and greater capacity for effective practice.

Informed by current practices, **the Centre will contribute to the professional and academic debate surrounding frontline negotiation processes, tools and strategies.** It will cooperate with leading policy and academic centres in setting up the necessary framework to analyse humanitarian negotiation and mediation experiences and in developing practical planning and evaluation tools for frontline negotiators.

- c) To foster a community of professionals engaged in frontline negotiations.

The ultimate goal of the Centre will be to facilitate the emergence of a global community of practice among professionals engaged in "frontline negotiations" across agencies, regions and themes. The activities of the Centre will be guided by a group of dedicated and recognized practitioners in humanitarian negotiations from headquarters and the field, committed to supporting and furthering the Centre's mission.

3. KEY ACTIVITIES

The activities of the Centre will be structured in three equally important sections:

- a) Peer-to-peer exchanges and support

The Centre will facilitate the sharing of experience on current challenges, dilemmas and strategies in humanitarian negotiations by:

- i) **facilitating opportunities for peer-review sessions on current negotiation practices and experiences** in close cooperation with relevant agencies;
- ii) **offering field and HQ seminars on frontline negotiations planning and evaluation** to encourage the development of professional relationships among humanitarian negotiators; and,
- iii) **enabling mentoring opportunities between senior and junior negotiators** at the field and HQ levels.

- b) Policy analysis and research

The Centre will promote the development of a stronger analytical framework and improved field practices by:

- i) **gathering information on the experiences and reflections of frontline negotiators** across organizations, regions and themes, including through individual interviews and field-based professional workshops,
- ii) **carrying out a concise analysis of negotiation practices based on contributions from practitioners**, focusing on recurring patterns and trends across regions and themes;
- iii) **facilitating the exchange of views and perspectives on humanitarian negotiations among leading scholars and experts** through guest lectures, online podcasts and an annual conference on humanitarian negotiations;
- iv) **publishing short policy briefs and reviews of literature on humanitarian negotiation theories, practices and case studies** in close collaboration with academic and policy centres;
- v) **providing practitioners with planning and evaluation tools** to make it easier to gather information on internal negotiation practices and strategies; and
- vi) **supporting the development of experiential learning modules and training materials** for the purpose of informing exchanges among professionals.

c) Communication and networking

The Centre will work to foster a community of humanitarian negotiators by:

- i) **identifying current networks of frontline humanitarian negotiators and mediators** within agencies and NGOs at the local, regional and global levels, using network assessment methodologies;
- ii) **developing a professional and supportive relationship with individual negotiators** focused on the development of their skills and abilities; and
- iii) **seeking to include individual practitioners in the Centre's management** and operations, using their guidance as it develops its activities.

It is expected that only a selection of the key activities under each header will be put into place during the development phase (i.e. the first five years) as recommended by the Strategic Partners, depending on the resources available.

4. PROCESS OF ESTABLISHING THE CENTRE OF COMPETENCE

The Centre will be established on the basis of the following principles:

- **The Centre will operate under a Strategic Partnership between the ICRC, UNHCR, WFP, MSF and HD.** The development of the Centre in its incubation period of five years will be chartered by a Strategic Development Plan to be adopted by the members of the Strategic Partnership. The Centre's activities will further be discussed within a Development Committee made up of field negotiators participating in their personal capacity. The Development Committee will meet onsite and online twice a year to advise the Centre's leadership on priority activities and themes in line with the Strategic Development Plan.
- **The Centre will work in close collaboration with all humanitarian agencies and organizations active in major humanitarian operations** to facilitate the exchange of negotiation experiences among humanitarian practitioners. Heads of partner agencies or their representatives will meet annually to review the Centre's strategic orientations.

- **The Centre's initial governance and administrative structure will be temporary by nature and hosted by the ICRC.** It will represent a practical framework to facilitate the establishment of the Centre over the incubation period of five years while avoiding the complexity of setting up permanent legal and administrative structures. In the course of the fourth year, Strategic Partners involved will determine how best to institutionalize this effort and expand the Centre's activities.
- **A full-time Director will manage the Centre with a team of 3-4 experienced professionals, some of whom seconded from partner organizations** under the legal, financial and administrative auspices of the ICRC. The Centre will be subject to the ICRC's administrative rules and procedures. The ICRC will formally appoint the Director of the Centre in consultation with partner agencies and hire the members of the Director's team upon his/her recommendations. The Centre will be funded by earmarked donations, both public and private, that will be managed by the ICRC in its role as the Centre's host. The ICRC will handle donor reporting for the Centre.
- The Centre's Director will be responsible for providing regular activity reports to the ICRC. The Director will prepare semi-annual reports on the implementation of the Centre's Strategic Development Plan, which will be shared with partner agencies.
- **The Strategic Partners will review and discuss the implementation of the Strategic Development Plan on an annual basis. Three years after the Centre becomes operational, the Director will work with an outside evaluator to assess progress made on the Strategic Development Plan.** Strategic Partners will review the recommendations of the evaluator in the fourth year of the development and decide upon the future of the Centre.
- At the end of the five-year incubation period, it is expected that the Centre will have demonstrated its capability to serve professionals engage in frontline negotiations and make a useful contribution to policy debates on access from the perspective of practitioners. Strategic Partners, in consultation with the main users of the Centre's services as well as interested donors, will be in a position to determine the future scope and format of the activities of the Centre as well as the terms of its institutional set-up.

5. GOVERNANCE STRUCTURE

The Centre will be established under the guidance and review of a Strategic Partnership between UNHCR, WFP, MSF, HD and the ICRC. It will be managed under a temporary arrangement under the auspices of the ICRC as fiduciary host for an initial incubation period of five years (see Table 1).

The activities of the Centre will be organized in three inter-connected units informed by regular discussion with experienced negotiators gathered twice a year in a Development Committee (one time per year onsite, and one time online).

Table 1: Functional chart of the Centre of Competence on Humanitarian Negotiation

