

Guidelines on Humanitarian Negotiations with Armed Groups



United Nations

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Contents

1 Objectives and Application of these Guidelines	1
2 Humanitarian Negotiations: Motivations and Partners	2
3 Framing the Negotiations	6
4 Working Towards More Effective Negotiations	7
5 Negotiating on Specific Issues	10
6 So You're Negotiating . . . Now What?	12
ANNEX I–Worksheet for Mapping Characteristics of Armed Groups	14

1 Objectives and Application of these Guidelines

*Partner to manual:
Humanitarian
Negotiations with
Armed Groups*

This set of guidelines is intended to provide concise advice and guidance to humanitarian practitioners on how to prepare for and conduct humanitarian negotiations with **non-State armed groups**.

This booklet summarizes the essential guidance presented in the more comprehensive partner publication titled, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*.

The six sections of this set of guidelines follow closely the sequence and content of the chapters in the partner manual. In addition to the guidance presented here, the manual provides comprehensive information on the important framing and contextual elements for undertaking humanitarian negotiations with armed groups. The manual also contains short case studies and examples of practical experiences of humanitarian negotiations with armed groups.

Throughout this set of Guidelines references are provided to the corresponding sections of the partner manual that provide more detailed information on a particular topic.¹

*Non-State
armed groups:
working definition
(Negotiations manual
Section 1.1)*

Working Definition of Non-State Armed Groups

Groups that: have the potential to employ arms in the use of force to achieve political, ideological or economic objectives; are not within the formal military structures of States, State-alliances or intergovernmental organizations; and are not under the control of the State(s) in which they operate.

*Objectives
(Negotiations manual
Section 1.3)*

The primary objectives of humanitarian negotiations are to: (i) ensure the provision of humanitarian assistance and protection to vulnerable populations; (ii) preserve humanitarian space; and (iii) promote better respect for international law.

*Negotiation does not
confer legitimacy*

Because of their exclusively humanitarian character, humanitarian negotiations do not in any way confer legitimacy or recognition upon armed groups.

*Security
considerations
(Negotiations manual
Section 1.5)*

The guidance presented here and in the partner manual does not supplant or circumvent existing security policies and guidelines. Operational aspects of humanitarian negotiations with armed groups must be conducted in accordance with the relevant security procedures.

¹ References to the corresponding sections of the partner publication, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, are provided to the left of the text in this booklet.

2 Humanitarian Negotiations: Motivations and Partners

Motivations for Entering into Humanitarian Negotiations

To facilitate and enhance humanitarian action (Negotiations manual Section 2.2)

- The overall objective of humanitarian negotiations is to secure the cooperation of an armed group in reaching an agreed outcome or understanding that will facilitate or enhance humanitarian action.
- Process-related motivations for humanitarian negotiations with armed groups may include: (i) building trust and confidence between the parties, and (ii) the process of negotiation can have a multiplier effect in terms of involving armed groups in a wider dialogue that may bring additional benefits.

Substantive Areas for Negotiation

Humanitarian access

Ground Rules

Protection of civilians

Humanitarian security

Special protection areas/periods

(Negotiations manual Section 2.2.1)

- To **secure humanitarian access** to reach populations in need;
- To seek **agreement with an armed group on a basic operational framework**—consisting of humanitarian principles, operating guidelines and commitments of both parties—to ensure the safe and efficient provision of humanitarian assistance and protection (often referred to as “**Ground Rules**” agreements). For example, the Ground Rules agreement concluded between the Sudan People’s Liberation Movement/Army (SPLM) and Operation Lifeline Sudan (OLS).
- To seek agreement on behaviour of belligerents that will improve the **protection of civilians** in areas under the control or influence of armed groups;
- To safeguard humanitarian security;
- To secure agreement on special protection areas or periods; For example, agreement to facilitate immunization campaigns or food distribution at specific times;
- To secure the release of persons being held by armed groups against their will.

Knowing When to Adopt a More Cautious Approach to Negotiations

Impact on humanitarian conditions

- When there is the likelihood that negotiations themselves could negatively impact humanitarian conditions, constrain the delivery of humanitarian assistance and protection or jeopardize the security of the beneficiaries.

Possible manipulation of humanitarian negotiations

- When armed groups attempt to use humanitarian negotiations to enhance their perceived legitimacy and/or to promote their political agendas/objectives.
- When armed groups are believed to be playing several humanitarian actors off against each other for their own gain.
- When the negotiations put the lives of the armed group interlocutors at risk.

(Negotiations manual Section 2.2.2)

- When the armed group attaches conditions for the implementation of an agreement that could adversely affect the civilian population.

Characteristics of Armed Groups

Key features

- Table 1 (page 4) presents some of the key features of non-State armed groups, and what these features mean for humanitarian negotiations with these groups.

(Negotiations manual Section 2.3)

- Consideration of the following characteristics of armed groups can increase the efficiency of the negotiations as well as the desired outcomes: (a) motivations; (b) structure; (c) principles of action; (d) interests; (e) constituency; (f) needs; (g) ethno-cultural dimensions; (h) control of population and territory (See **Annex I**).

Humanitarian Partners in Negotiations

Identify one or more lead negotiators (Negotiations manual Section 2.5)

- The humanitarian actors in a specific context/region should identify one or more lead negotiators, who should act as the primary representative(s) of humanitarian agencies (country team, humanitarian community in a specific context/region).

- The humanitarian negotiations and their underlying humanitarian objectives should remain strictly distinct from political and/or other negotiations.

Keeping humanitarian and political negotiations separate

- Humanitarian agencies should agree on the process and intended outcomes of the negotiation.

Table 1
Key features of non-State armed groups

Key features of armed groups: They ...	What humanitarian negotiators need to be aware of based on these features:
<p>have the potential to employ arms in the use of force for political, ideological, or economic objectives;</p>	<ul style="list-style-type: none"> → Humanitarian negotiations do not infer any legal status, legitimacy or recognition of the armed group; → Humanitarian negotiators should explore the driving motivations and interests behind the actions of the armed group (see below); → Humanitarian negotiations do not in any way dilute the accountability of the armed group for past/current/future actions;
<p>have a group identity, and act in pursuit of their objectives as a group;</p>	<ul style="list-style-type: none"> → Individual members of an armed group will always have their own ‘agendas’, however an armed group (different from a group of armed individuals) shares some common history, aspirations, objectives, or needs that are attributes of the group; → Members of an armed group will be strongly influenced by group conformity pressures such as depersonalization of victims; perceptions of impunity; moral disengagement and obedience to group authority;
<p>are not within the formal military structures of States, State-alliances or intergovernmental organizations;</p>	<ul style="list-style-type: none"> → This characteristic of non-State armed groups has important implications for enforcing accountability for the actions of members of the group. The ‘extra-State’ status of armed groups means that the applicable legal provisions relating to the duties and obligations of these groups under international law may differ from the duties and obligations of States, and for certain provisions, there remains some legal uncertainty as to the extent that those provisions apply to armed groups;

Table 1 (continued)

Key features of armed groups: They ...	What humanitarian negotiators need to be aware of based on these features:
<p>are not under the command or control of the State(s) in which they operate;</p>	<ul style="list-style-type: none"> → Armed groups may not be under the command or control of the State(s) in which they operate, but they may receive direct/indirect support of the host government or other States; → Humanitarian negotiators need to be aware of the potential for influencing parties that support armed groups;
<p>are subject to a chain of command (formal or informal).</p>	<ul style="list-style-type: none"> → This is an important attribute of armed groups, because it means (at least in theory) that there is some degree of centralized command and control, however limited, over the actions of group members. When this centralized command structure breaks down, it can no longer be considered to be <i>one</i> armed group, and humanitarian negotiators may have to identify interlocutors within several factions of the original group; → When a chain of command (however limited) is functioning, it increases the likelihood that lower-ranking members of the group will respect the undertakings and agreed outcomes negotiated by and with their leaders; → In implementing an outcome agreed with the leaders of an armed group, humanitarian workers should attempt to identify the local chain of command to increase the likelihood that any agreed outcome will be respected and implemented by lower-ranking members of the group;

3 Framing the Negotiations

- Humanitarian principles, policies and international law provide a framework and source of guidance for humanitarian negotiations with armed groups.

Humanitarian Principles

Core humanitarian principles

- Three core humanitarian principles of Humanity, Neutrality and Impartiality; Additional principles: Dignity; Respect for Culture and Custom; Do No/Less Harm; Independence; Sustainability; Participation; Accountability; Transparency; and Prevention.

Using principles to guide negotiations

- These principles guide humanitarian negotiations by: (1) providing a source of direction for humanitarian negotiators on how negotiations should be undertaken; (2) defining boundaries within which to seek agreement; and (3) providing a set of criteria for developing options for consideration by the negotiating parties.

(Negotiations manual Section 3.2)

International Law Relevant To Humanitarian Negotiations

IHL, IHRL and International Criminal Law

- Three bodies of international law—International Humanitarian Law (IHL), International Human Rights Law (IHRL) and International Criminal Law (especially The Rome Statute of the International Criminal Court)—provide important framing elements for undertaking humanitarian negotiations.

Defining boundaries and framing obligations

- International law guides humanitarian negotiations by: (1) defining boundaries within which to seek agreement; (2) framing the legal obligations of armed groups; (3) identifying the substantive issues for negotiation; providing an entry point for discussion on these issues; (4) providing reference benchmarks for evaluation of options and monitoring implementation; and (5) providing incentives to armed groups to negotiate.

(Negotiations manual Section 3.3)

Humanitarian Policies

Operationalizing the humanitarian principles

- Humanitarian policies assist in translating and implementing humanitarian principles and legal provisions into an operational setting, generally focusing on a particular aspect of humanitarian action (e.g. guidelines on civil-military relations, IDPs).
- Humanitarian policies can guide humanitarian negotiations by broadening the range of options that parties to the negotiations can consider as a basis for agreement.

(Negotiations manual Section 3.4)

4 Working Towards More Effective Negotiations

Nine steps

This section presents nine steps for humanitarian negotiations with armed groups that provide a generic framework, which can be applied to humanitarian negotiations on a range of issues.

*Three phase:
PREPARATION,
SEEKING AGREEMENT,
IMPLEMENTATION
(Negotiations manual
Section 4.2)*

The nine steps are presented in three phases of negotiation: PREPARATION; SEEKING AGREEMENT and IMPLEMENTATION.

This step-by-step approach is summarized in Figure 1, page 8.

Phase I

PREPARATION >>

Coordinate Approach, Decide on Strategy, and Gather Information

- 1: Coordinate Approach With Humanitarian Partners**
- 2: Decide on Objectives and Strategy**
- 3: Learn About, Analyze Your Negotiating Partner**

Phase II

SEEKING AGREEMENT >>

Process, Issues, Options, Outcomes

The next four steps in the process of negotiation are undertaken during the actual “face-to-face” interactions with the armed group.

- 4: Build Consensus on the Process of Negotiations**
- 5: Identify the Issues**
- 6: Develop Options**
- 7: Work to Seek Agreement on the Option(s) that Best Meet Humanitarian Objectives**

Phase III

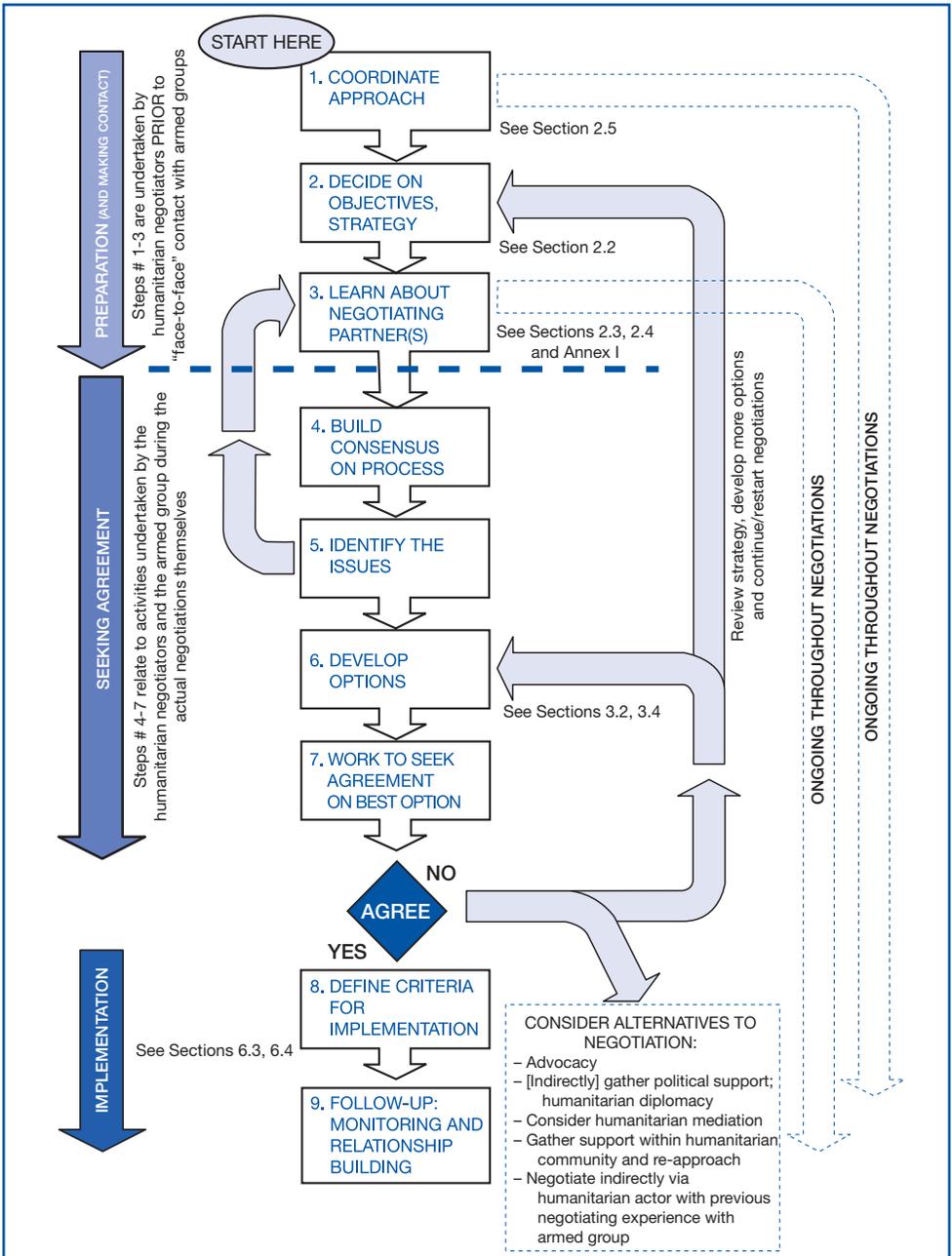
IMPLEMENTATION >>

Define Criteria for Implementation, Follow-up

- 8: Define Criteria for Implementation**
- 9: Follow-up: Monitoring and Relationship Building**

Figure 1—Summary of 3 phases, 9 steps in humanitarian negotiations

(Note that section references in this flowchart refer to sections of the *Manual on Humanitarian Negotiations with Armed Groups*)



What to do if Negotiations Fail to Converge or Break Down

*(Negotiations manual
Section 4.5)*

- Review Strategy, Confirm Issues and Develop more Options
- Keep Open Alternatives on SUBSTANCE
- Try Building on the Existing Process
- Explore Alternatives to PROCESS
- Don't Burn Bridges
- Reinforce Lines of Communication

5 Negotiating on Specific Issues

Negotiating *Ground Rules* for Humanitarian Action

Purpose and scope of Ground Rules

- Humanitarian negotiators should be clear about the purpose and scope of any *Ground Rules* agreements to be agreed with an armed group.
- Any *Ground Rules* framework agreement should be based on principles of humanitarian action recognized by the participating humanitarian organizations.

Agreement does not accord legitimacy to armed group

- Agreement on the humanitarian principles, operating guidelines and commitments of both parties (humanitarian agencies and the armed group(s)) that collectively constitute a *Ground Rules* agreement does not infer or accord legitimacy to the armed group.
- Based on existing guidance, humanitarian negotiators can draft an outline of the *Ground Rules* agreement (i.e. a template of the ground rules document for discussion with the armed group) prior to negotiations.

(Negotiations manual Section 5.3)

Negotiating Humanitarian Access

Access as precondition for humanitarian action

- Humanitarian negotiators should present the issue of access as a precondition for any humanitarian action in order to meet the humanitarian needs of a population, rather than access to a particular territory.

Working principles of access

- Humanitarian organizations should approach the negotiations with a set of working principles of humanitarian access agreed upon among the humanitarians—for example, *sustainability* of humanitarian access—to guide the dialogue on the details of the access arrangements (i.e. how access will function in practice).
- Humanitarian negotiators should make it clear to the armed group and to parties external to the negotiations, that the access negotiations do not confer recognition by the humanitarian organization of the armed group, its political or economic agenda, or its control/influence over a population or territory.

Initial steps in negotiating access

- The early stages of the negotiations could usefully focus on securing access for the purposes of conducting a baseline humanitarian needs assessment mission, as an initial step towards negotiations on humanitarian access more broadly.
- Access negotiations should include consideration of: (i) logistics (how will access actually work: frequency of convoys, etc.); (ii) liaison arrangements (... between humanitarian organizations and the armed group(s)); (iii) the need to communicate agreed access procedures within organizations.

(Negotiations manual Section 5.4)

Protection of Civilians in Accordance with International Law

Awareness of need for protection

- Humanitarian negotiators should raise awareness among members of the armed group on the need of civilians to be protected in armed conflicts.

Protections not negotiable

- Protection of civilians in armed conflict per se is not negotiable. Humanitarian negotiators should attempt to demonstrate (using a persuasive approach to negotiation) to the armed group that it is also in their interest to ensure the protection of civilians.

Generate options for enhanced protection

- Humanitarian negotiators should generate options for consideration that can lead to enhanced protection of civilians. In the case of recruitment of child soldiers, options could include registration/demobilization of child soldiers, education and training schemes for demobilized child soldiers, and/or agreement, arrangements for care of orphaned children in areas controlled by the armed group;

(Negotiations manual Section 5.5)

- Even though the armed group is not a party to the international human rights treaties, human rights themselves can provide a basis for discussion with armed groups on the type and scope of protections that need to be afforded to civilians.

6 So You're Negotiating ... Now What?

Possible Negative Implications of Humanitarian Negotiations

Perceptions regarding neutrality

- Changes in perceived neutrality and impartiality of humanitarian actors engaged in negotiations

TO MITIGATE: (A) clearly communicate the objectives and the scope of the negotiations with armed groups; (B) communicate and negotiate with all parties to a given conflict.

Humanitarian security

- Impacts on humanitarian security

TO MITIGATE: (A) meet with the armed group in a neutral location/venue; (B) request security guarantees from the armed group prior to negotiations; (C) ensure that the necessary parties (e.g. host government) are informed of the humanitarian negotiations.

Third-party influence

- Third-party influence and 'sanctions' on humanitarian negotiators

TO MITIGATE: (A) engage in parallel advocacy efforts and bilateral humanitarian diplomacy to gain support for the humanitarian negotiations; (B) ensure that the objectives and process of humanitarian negotiations with the armed group are effectively communicated to those that may seek to exert pressure to constrain the negotiations; (C) build consensus, support for negotiations across humanitarian organizations.

(Negotiations manual Section 6.2)

Commitment to the Agreement, Enforcement and Dispute Resolution

Commitment (Negotiations manual Section 6.3)

- Secure/enhance commitment by: (1) ensuring 'buy in' and ownership; (2) clear statement of roles and responsibilities for implementation; (3) emphasizing accountability; and (4) including all parties in monitoring of implementation.

Enforcement (Negotiations manual Section 6.4)

- Enforcement: By incentives or coercion ("carrot and stick"); other actors may be better placed to apply diplomatic/other pressure to armed group.
- Humanitarian organizations can continue negotiating on issues of enforcement, attempt to persuade armed group, focusing on accountability of armed group.

*Dispute resolution
(Negotiations manual
Section 6.4.2)*

- Three possible dispute resolution mechanisms for consideration: (1) Establishment of an implementation monitoring commission; (2) Referral of disputed provisions to an independent non-binding arbitration mechanism; (3) Appointment of a neutral mediator to assist the parties in resolving disputes.

Dealing with Non-Compliance

*Engage external
actors*

- Enter into further negotiations with the armed group to arrive at an agreed outcome which may resolve the issues of non-compliance with the original agreement.
- Identify third party States, regional organizations or other actors (civil society, churches, notabilities) and engage, directly or indirectly, in advocacy and humanitarian diplomacy to get these actors to apply pressure (diplomatic, other) to the armed group to comply with the agreement.

*Suspension of
activities as last
resort*

*(Negotiations manual
Section 6.4.3)*

- If non-compliance with the agreed results in an operating environment which compromises humanitarian security; consider, as a last resort, suspension of humanitarian activities until a conducive humanitarian operating environment is re-established.

Annex I - Worksheet for Mapping Characteristics of Armed Groups

This worksheet is intended to capture, in a concise manner, the main characteristics of an armed group. Humanitarian negotiators can use this worksheet: (i) to take notes on the characteristics of a particular armed group during the PREPARATION phase, (ii) as a summary reminder of the main characteristics of an armed group during the SEEKING AGREEMENT phase; and (iii) as a means of capturing new information about the armed group during and following the negotiations.

Name of Group:	Structure	Principles of action	Armed group negotiator:	Date:	Ethno-cultural dimensions	Control of population and territory
Motivations	Needs	Constituency	Interests	Needs	Ethno-cultural dimensions	Control of population and territory
Original motivations: — Economic — Political — Religious — Ideological — Other	Single leader Executive committee	What are the principles of action of the group? Guerilla warfare	What are the group's dominant interests? Achieving political outcomes Self-preservation	Organizational Resource-related	Religious beliefs Cultural practices (eg. role of tribal elders, community mediators)	Extent of control over: 1) Population 2) Territory
Current motivations	Hierarchical or flat	Economic principles Ideological principles	Economic interests Personal interests of leaders Other	Identity-related Needs of individual negotiators	How does the armed group view members of other groups?	How is control exerted?
What do leaders say about motivations?	Who are central/local leaders to be aware of? Sources of support	Political principles Religious principles	Do stated interests concur with actions of the group?	Do community leaders 'endorse' the armed group?	What is the basis for his control (coercion/legitimate support basis etc.)?	

Notes

Notes



These Guidelines and the companion Manual provide a structured, easy-to-follow approach to humanitarian negotiations with armed groups. The publications fill a need which has long been recognized by operational humanitarian agencies.

The necessity for a more structured approach to humanitarian negotiation has been reflected in statements and resolutions of the UN Security Council and the UN General Assembly. Noting the obstacles posed by the lack of structured interaction with non-State actors, the Security Council, in particular, has expressed its encouragement for

“the ongoing work by United Nations agencies to prepare a manual of field practices of negotiations with armed groups to better assist coordination and to facilitate more effective negotiations.”
(S/PRST/2002/41)

By providing that structured approach, these Guidelines and the companion Manual will assist humanitarian workers in achieving better humanitarian outcomes in situations that require negotiation with armed groups.

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