

## Guidance Note 2

# Humanitarian Access and Presence

## 1. Humanitarian access

Gaining access to internally displaced populations is essential to identifying and ultimately responding to their protection and assistance needs. **Humanitarian access** should be understood both from the perspective of the affected population having access to protection and assistance, as well as the humanitarian actors having access to those requiring assistance and protection.

There are often multiple and varied constraints on access. These may be related to the operating environment, e.g. difficult terrain, absence of roads and airstrips, ongoing armed conflict; or constraints may be a result of deliberate efforts to restrict humanitarian activities or witnessing functions. The latter may take the form of, for instance, excessive bureaucracy to grant access to humanitarian organizations to certain populations or areas; deliberate attacks on humanitarian personnel; or not acknowledging the existence of humanitarian needs by part of the population.

Gaining humanitarian access may need a **strategic combination of measures** to address the various constraints. In armed conflict situations, **humanitarian negotiations** may be a critical element in a strategy to ensure sound conditions for an effective protection presence and for sustainable assistance and protection activities (*see box below*).

Formal negotiations for humanitarian access usually take place between the country team, led by the Humanitarian Coordinator, or the Resident Coordinator in the absence of the latter, and the government or non-State actors.

Occasionally, specialized agencies with responsibility for a particular beneficiary group/sector might also engage in more detailed negotiations relating to their specific mandates.


Negotiating access with non-State actors proves particularly challenging if they have complex and unpredictable structures, or lack knowledge of basic humanitarian principles. Negotiating with non-State actors may also trigger a variety of ethical or moral dilemmas as well as suspicion by other parties.<sup>1</sup>

“The overall purpose of **humanitarian negotiations** is to ensure the impartial protection of, and the provision of assistance to, civilians affected by armed conflict and other people rendered *hors de combat*, as stipulated by international humanitarian law, human rights law and refugee law. Humanitarian negotiations are conducted:



- **by humanitarian actors**, such as members of appropriately mandated and impartial organizations like UN agencies, NGOs or the International Committee of the Red Cross (ICRC);
- **for humanitarian objectives**, including humanitarian access, protection, assessment and assistance, as set out in international humanitarian law;
- **in countries affected by armed conflict**, either of an international or non international character; and
- **with the parties to the conflict**, that is, those with power and responsibility for the conduct of war, for the humane treatment of civilians and those *hors de combat* and for the distribution of assistance.”

Excerpt from *Humanitarian Negotiation: A handbook for securing access, assistance and protection for civilians in armed conflict*, p.19 (see under resources below).

<sup>1</sup> The potential political or security implications connected with establishing a dialogue with a party to a conflict should be considered when negotiating with both State and non-State actors. See *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, United Nations, New York, 2006, p. 10.

The implementation of access agreements often requires contact and further negotiations with a myriad of actors, both bound and not bound by these access agreements. Consequently, staff working at the country and regional/field levels need to develop sound negotiating skills and a good understanding of issues related to humanitarian access and presence (see Part II.2). 

The following table provides basic guidance for humanitarian negotiations on access and should be read in connection with the Negotiation Section in Part II of this Handbook. It could be useful to **discuss this table within the inter-agency team and national interlocutors at the local level to ensure a shared understanding.**

Negotiating Access	
<b><i>Be prepared for access negotiations</i></b>	<p>Develop a negotiating strategy and, at a minimum:</p> <ul style="list-style-type: none"> <li>● Conduct a thorough situation analysis, understanding both your own, as well as your negotiating partner’s position <u>and</u> interests, particularly <i>vis-à-vis</i> the civilian population, activities of humanitarian organisations, the parties to the conflict, and the potential delivery of humanitarian supplies and resources.</li> <li>● Identify which actors (both State and non-State) have authority to grant access as well as who among them has the authority to negotiate or to act as intermediary.</li> <li>● Develop a coordinated approach with humanitarian partners to identify:               <ul style="list-style-type: none"> <li>– who among humanitarian actors should lead the negotiations or act as intermediary;</li> <li>– constraints on access;</li> <li>– key objectives;</li> <li>– bottom line for the negotiation; and</li> <li>– non-negotiable parameters (see below).</li> </ul> </li> </ul>
<b><i>Agree with partners on “non-negotiable parameters”</i></b>	<ul style="list-style-type: none"> <li>● Ensure that all humanitarian partners agree on a series of non-negotiable parameters. These should include: core humanitarian principles (see Part I.1.5);  the prohibition of payment in exchange for access; the ability to conduct independent assessments, monitoring and evaluating aid distribution; respect for basic organizational policy principles; and rules on armed personnel.</li> <li>● Approach negotiations with a set of previously-agreed working principles regarding humanitarian access, such as the sustainability of access.</li> </ul>
<b><i>Carefully gauge and state the purpose of access</i></b>	<ul style="list-style-type: none"> <li>● Highlight the importance of access as a precondition for humanitarian action; emphasize the need to meet the humanitarian needs of a population, rather than gaining access to a particular territory.</li> <li>● Emphasize the centrality of upholding humanitarian principles (humanity, impartiality, and neutrality) as the basis for gaining access (see Part I.1.5). </li> <li>● Be cautious of potential attempts by counterparts to incorporate political and security issues within humanitarian negotiations. These matters should be referred to those with authority to negotiate on such issues.</li> <li>● Especially if there is a risk that access will be denied altogether, present the objectives of access in a balanced way during the negotiations. Access and presence gained for the purpose of baseline needs assessment or emergency assistance can provide a vital starting point for protection work.<sup>2</sup></li> </ul>
<b><i>Negotiations do not confer recognition</i></b>	<ul style="list-style-type: none"> <li>● Maintain transparency with all parties to ensure that all understand that access negotiations are of a strictly humanitarian character and do not in any way confer recognition upon the group or its aims.</li> </ul>

<sup>2</sup> Negotiating access primarily for the purposes of protection work can be a sensitive issue in new crises where there has been no time for building confidence between humanitarian actors and national authorities.

<b>Prioritize safety aspects</b>	<ul style="list-style-type: none"> <li>• Emphasize safe access during the negotiations, including the safety of cargo, agency staff, partners and affected populations.</li> </ul>
<b>Include key logistical aspects in the negotiations</b>	<ul style="list-style-type: none"> <li>• Ensure that negotiations include key logistical aspects associated with access, that is, the details of how access will actually work, such as the frequency of convoys, the duration of humanitarian presence.</li> <li>• Consider liaison arrangements that ensure free passage through checkpoints to reach the intended beneficiaries.</li> <li>• Seek formal clarity on how parties communicate agreed access procedures within their respective organizations.</li> </ul>

## 2. Humanitarian presence and its role as a protection tool

Establishing a presence **in situations of internal displacement** is essential for conducting an effective humanitarian operation and implementing a successful protection strategy.

The term “humanitarian presence” refers to the actual deployment of humanitarian agencies in a given location to assist and protect populations in the midst of a humanitarian crisis. Generally, a field presence may be **a deterrent to potential abusers** in the following ways:<sup>3</sup>

- Humanitarian actors can bear witness to events and expose perpetrators to internal sanctions, prosecution, and moral or political judgments.
- A field presence can provide the space to put into effect rules and systems protecting IDP and other affected populations.
- A field presence restricts the political space available to perpetrators by increasing the cost of abusive actions and limiting options. For example, potential perpetrators might be concerned about their superior’s reaction, damage to their political reputation and post-conflict prospects, or the loss of benefits gained from international collaboration.
- Independent of each agency’s mandate, a humanitarian presence may have psychological value. Affected populations often feel reassured when representatives of the international community can witness their situation and report on it.

**Note:** While in all these situations humanitarian presence can play an important protection role, **presence alone is not sufficient**. If not planned and implemented strategically on the basis of a common vision of protection by all humanitarian partners, their presence may have little or no impact on the protection of affected communities; rather, it may place these communities at greater risk. In some cases, it may even become an excuse for political inaction and embolden perpetrators.

## 3. Key considerations for maintaining a protective presence

Depending on the situation and the mandate of the specific agency, humanitarian presence may have the objective of accompanying populations at risk; monitoring and reporting human rights situations; or contributing to the protection and assistance of IDPs and other affected populations.

The following table suggests key considerations to maximize the protective impact of humanitarian presence. It also aims to assist in avoiding undesired effects of humanitarian presence that may place local communities and civilians in general at greater risk.

<sup>3</sup> See, Mahony, Liam, *Proactive Presence: Field Strategies for civilian protection*, Henry Dunant Centre for Humanitarian Dialogue, Geneva, 2006.

**A protective and Strategic Presence**

*Common assessment, planning and coordination (see Part III.1)*



- All humanitarian partners must have a shared vision of how the core principles of humanitarian action – humanity, neutrality, and impartiality – will be applied to the specific operation. Ensure that all staff is aware and understands the practical implications of such shared vision (see Part I.1).
- All humanitarian partners in the operation (both protection and non-protection mandated agencies) should agree on basic parameters to ensure a protective presence. This is essential to maximize the level of influence on relevant parties, guard against potential manipulation of individual agencies by the various parties, and maximize the protection impact of relief interventions. This implies:
  - To agree on key objectives for the humanitarian presence in the country;
  - To reach a shared understanding of protection gaps (see Part III.1 and 2);
  - To agree upon a strategy to address identified protection gaps, coordinating leadership and different responsibilities for protection (see Part III.2);
  - To ensure that all staff is aware of the different activities and the potential risks associated with the strategy in light of the political and security situation;
  - To ensure the training of all humanitarian staff on the core humanitarian principles and the fundamentals of protection work (see Part I.1);
  - To take into consideration the potential risks and sensitivities linked to different staff members’ ethnic, religious, linguistic or perceived affiliations. This is particularly important when presence through national staff *only* is allowed.

**Activities during presence**

- In implementing their activities, all humanitarian actors should ensure that IDPs and the other affected populations are aware of their presence, mandate and/or objectives. Agency-specific visibility signs on clothes, vehicles and office facilities may enable persons of concern to easily identify and have access to humanitarian and protection mandated agencies.
- When interacting with IDPs and other affected populations, avoid creating a false sense of safety associated with an international presence. In certain situations, this may place vulnerable populations at greater risk. For example, populations may erroneously opt to remain in areas with an international presence instead of moving elsewhere or even seeking asylum in a neighbouring country.
- When sharing humanitarian action plans and protection strategies with affected populations, be realistic and transparent as to what can be achieved. If humanitarian presence does not render the expected results, it might generate disappointment among IDPs and other affected populations. This can add to their difficulties in regaining hope and overcoming the trauma resulting from their personal experiences during conflict (see Part IV.6).
- Be aware of the possibility of placing particular individuals at risk by being seen interacting with them. If interacting with specific individuals seems unavoidable in order to prevent a major human rights violation from taking place or to improve the protection of part of the affected populations, ensure that the relevant individuals are aware of:
  - the potential risks resulting from interacting with humanitarian partners.
  - that the discussions or testimony will not render them any material or financial benefits;
  - the interaction is voluntary and individuals are clearly given the choice to decline it (see Part IV.1); and
  - the purpose of the humanitarian presence and its intended impact on the community.



**Impact analysis***(see Part III.3)*

- Programme evaluations should analyze the impact of the humanitarian presence. In particular, they should assess whether:
  - Presence is reduced to a “witnessing” function of serious and systematic human rights violations, which might provide a sense of impunity and increase risks to the victims, witnesses, humanitarian workers and affected populations in general;
  - Presence puts individuals or affected communities at risk;
  - Presence unduly prolongs displacement by pursuing protracted encampment policies and concentrating assistance in areas away from those where IDPs can find durable solutions.
- In any of the above cases, humanitarian actors need to take determined action to avert such undesired effects of their presence. This may imply:
  - Revising operating modalities to address negative impacts. This may be the case when humanitarian assistance to IDPs creates situations of discrimination or tension vis-à-vis other affected populations; or when expanding humanitarian support to all affected populations can ensure that IDPs can leave camps or sites and integrate with the rest of the population without draining local resources.
  - In certain extreme circumstances, it may be necessary for humanitarian actors to withdraw to allow for political action. This may be the case where an international humanitarian presence has repeatedly failed to curb systematic violence and abuse.



## Resources

- *Humanitarian Negotiation: A handbook for securing access, assistance and protection for civilians in armed conflict*, Mancini-Griffoli and Andre Picot, Centre for Humanitarian Dialogue, Geneva 2004.
- *Proactive Presence: Field Strategies for Civilian Protection*, Mahoney, L., Centre for Humanitarian Dialogue, Geneva, 2006.
- *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, United Nations, New York, 2006.
- *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, an evaluation by Simon Bagshaw and Diane Paul, the Brookings Institution-SAIS Project on Internal Displacement and the United Nations, OCHA-IDD, November 2004.
- *Protection: An ALNAP Guide for Humanitarian Agencies*, Slim, H., and Bonwick, A., ALNAP, Overseas Development Institute, London, 2005.



## Useful Websites

- Centre for Humanitarian Dialogue: [www.hdcentre.org](http://www.hdcentre.org)
- Programme on Negotiation, Harvard Law School: [www.pon.harvard.edu](http://www.pon.harvard.edu)
- United Nations Children Fund (UNICEF): [www.unicef.org](http://www.unicef.org)
- Reliefweb (OCHA): [www.reliefweb.int](http://www.reliefweb.int)
- Overseas Development Institute: [www.odi.org.uk](http://www.odi.org.uk)