



IMMIGRATION
DETENTION
MONITORING



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MODULE 6 MONITORING SKILLS



UNHCR
The UN Refugee Agency



LEGEND

 **LEARNING OBJECTIVES**

 **REFLECTION ACTIVITY**

 **SUPPLEMENTARY READING**


 **SELF-ASSESSMENT**

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CHAPTER 1

LEARNING OBJECTIVES AND UNIT STRUCTURE

✓ BY THE END OF THIS INTRODUCTION, YOU SHOULD BE ABLE TO:

- ✓ Outline the key components and principles of interviewing, drafting reports and recommendations and negotiating in the detention monitoring context;
- ✓ Explain the crucial importance of recommendations in the reporting process; and
- ✓ Formulate targeted recommendations and use the double SMART model.

You are asked to carefully read the following chapters and complete some short assignments.

This module should take you around 80 minutes to complete.



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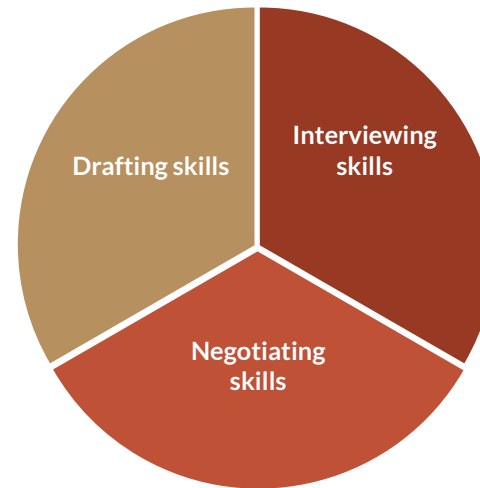
Chapter 1



CHAPTER 2

Monitoring skills

Carrying out monitoring visits to immigration detention facilities is the principal means of obtaining first-hand information on treatment of detainees, their detention conditions and how the places of detention function. This is a complex and time-consuming task. To carry out this task properly, monitors need to have the key skills:

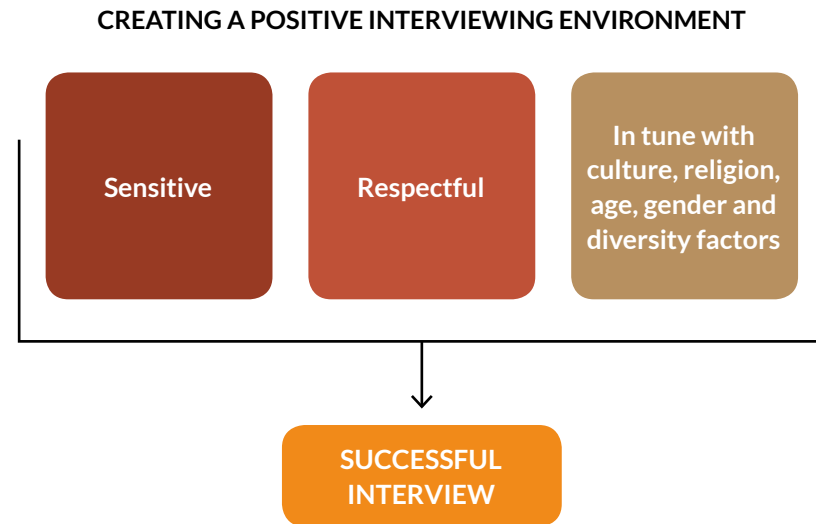


Let us examine these.



INTERVIEWING IN THE IMMIGRATION DETENTION SETTING

In the immigration detention setting, interviews are the most important part of the visit, because this is opportunity to hear directly from detainees about their conditions and treatment in detention. The purpose of the interview, therefore, is to find out about their experiences and thus gather a realistic picture about the immigration detention facility.



← Click to watch the video.



3.1 Specific considerations for interviews carried out in the immigration detention context

Interviewing is a complex and sensitive task. It requires careful thought and handling.

If interviewing is carried out incorrectly, there is a risk of obtaining incomplete information, being deliberately misled or even putting detainees at risk.

Click on the boxes in the diagram to learn more.

Monitors must always remember that every person who is deprived of liberty is vulnerable; and any place of detention is an environment where individuals are vulnerable vis-à-vis the authorities.

When interviewing people in immigration detention, it is important to remember that they are in a very difficult environment where they are deprived of their liberty and unable to make many choices for themselves. Detention likely has had a negative effect on their sense of self and well-being. Detainees affected in these or other ways may present in a way that is very confused and struggle to express themselves clearly.

Effects that immigration detention can have on people include (please see [Monitoring Immigration Detention Manual](#), section 3.4.5)



3.2 Preparing for the interview: being aware of how monitors could be perceived by interviewees

It is paramount that prior to the interview monitors carefully consider how they could be perceived by detainees. This will help monitors ensure that the expectations detainees' expectations are appropriately managed. It is likely that most asylum-seekers in detention will not know the precise role and mandate of the monitors. The interview setting may be particularly confusing for them. So it is important that monitors be conscious that they may be perceived as:



3.3 The fundamental considerations when interviewing

There are three fundamental considerations that must be kept in mind when interviewing asylum-seekers in detention.





3.4 Interim assignment

Please read the following statements and identify whether the monitor has made the correct choices.

		Correct	Incorrect
1.	When I interviewed a detainee, I was asked by the detainee if I agree that the detention facility is terrible. The detainee was very upset and agitated and so I decided to avoid giving the answer in case I upset him more and he gets angry at one of the guards.		
2.	This detainee has asked me to name him directly in our report and to report the private details of his medical condition. We did not mention that this will be a public report but since we have his express consent, we shall include this private information in our public report.		
3.	As I interviewed a detainee, I noticed another detainee just sitting down close by to us to read a book. I stopped the interview and we moved away from the place to continue the interview elsewhere.		
4.	As I walked away from the interview, I saw a number of officers observing me, so I returned to the interview spot and conducted three more interviews with detainees of similar age and of the same gender as the first one. This was just to make sure that the information I collected could not be attributed to the one specific detainee.		



	Correct	Incorrect
5. When interviewing detainees, I have a separate sheet where I note the personal details of the detainees I interview and I keep this sheet separate from the main interview notes. I assign each a number so when I take notes, the detainees are only identified by the assigned number.		
6. When interviewing a detainee, I used the interview as an opportunity to cross-check the information what the other detainee (whom the interviewee saw leaving the room) told me in the interview just before this one.		
7. The date of arrival of some asylum-seekers was different from what was officially recorded by the detention facility and what I was told at the interview. It's good I had my interview notes to show this to the head of the detention facility.		
8. One of the asylum-seekers was very worried that guards might get angry with him for speaking to us, so I made a short visit back two days later to make sure the detainee was all right.		

3.5 Individual or group interviews

Interviews can be either individual or group interviews; each of these has pros and cons that the monitors must weight before making the choice.

Click on the boxes
to see more.

3.6 Selecting interviewees

It is necessary to select detainees to interview. Depending on the objectives of the visit, consideration could be given during the planning stage to mixing interviewee selection strategies such as:

- **'Random selection method'**: For instance, observation during the initial tour of the premises (e.g. in the yards) can identify people who could be interesting to interview later on in private; random selection from the register (e.g. one in every five persons)
- **Basing a selection on specific criteria**: For example, choosing the newcomers or those who have spent very long periods in detention; or specific people in situations of vulnerability/risk; or detainees with reported or recorded self-harm, 'accidental' injuries, use of force and isolation measures; or random selection from the register.

Do not forget that staff may be interviewed as well to establish primary information or for the purposes of verifying or cross-checking issues raised by detainees or others.





3.7 Conducting interviews: alone or with another monitor?

As we discussed in Module 4, monitoring visits are best conducted by a team, which should be multidisciplinary and have appropriate gender balance. However, when it comes to the interviews, the team approach needs to be carefully considered. There are two options: conduct interviews singly or in pairs. Conducting interviews with more than two interviewers is not advisable because such an interview can become confusing and intimidating for the interviewee.

Singly

- the sole responsibility for the completeness of the interview rests with one interviewer
- may expose the interviewer to safety risks

In pairs

- more supportive
- more effective
- greater accountability
- measure of safety in case of accident

BUT

- Allows for better rapport
- May be better suited for sensitive/confidential topics

BUT

- there must be a clear division of tasks
- having more than three people (including an interpreter) interviewing is not recommended, because this may intimidate the detainee and will also make it difficult to manage the interview

LOCATION of the interview: The interview location needs to be and feel safe, be respectful of the individual's dignity and occur in a setting that cannot be overheard and which is sufficiently separate to maintain privacy and confidentiality. Avoid locations associated with staff and management, such as their offices, and do not feel obliged to take directions from staff and management about where to conduct private interviews.



3.8 Conducting the interview: Introduction

At the beginning of an individual interview with a detainee, the interviewer should:

1. Introduce himself or herself, and any other team member present;
2. Introduce the monitoring body to which they belong;
3. Introduce any interpreter(s) present;
4. Give the interviewees a reasonable opportunity to introduce themselves and tell their story; and
5. As part of the introduction, interviewers can also actively encourage and welcome questions and requests for clarification at any time during the interview.

The interviewers should consider the use of [checklist](#) and [recording devices](#).

TIP: Discussing non-threatening issues is a good way to start an interview, but what this entails will depend on the specific situation. For example, if monitors see that the detainee is reading a book, they could comment on it. The context will dictate which themes are likely to be appropriate and effective for breaking the ice.

RISKS OF USING RECORDING DEVICES

- Sources are more easily identified
- Content is vulnerable (it could be confiscated or stolen)
- Some interviewees may be put off by the use of recording devices

BENEFITS

- Electronic/digital record may provide added protection against the loss of information
- Detailed recording of information
- Permits concentrate on the interviewee because the need to take notes is limited
- Can increase the pace of interview because there is no need for detailed note-taking

TIP: Always take notes even if you are using a recording device. Devices can malfunction; they can be lost or confiscated and you can lose their contents.

TIP: If you decide to use a recording device, make sure you know how to use it, which buttons to press and have spare batteries etc. with you or you may not record the interview properly!

CONSENT: It is imperative that the express consent of the detainee (either written or recorded) is sought and obtained. Note also that the detainee can be reminded that she or he is entitled to ask for the recording device to be turned off at any point. Monitors should never use hidden recording devices.



3.9 Conducting the interview: What questions to ask?

When interviewing detainees, monitors need to keep in mind:

Click on each arrow
to see the tips.



Click to watch
the video.



Think about how the following pairs of questions on the same topics can have quite different effects. Select the ones you would use:

You were denied a visit from a lawyer, weren't you ?

When did you last see your lawyer ?

You are not provided with breakfast here, are you ?

What did you have for breakfast this morning ?

Can you show me where you sleep, please ?

Is this mattress where you usually sleep ?

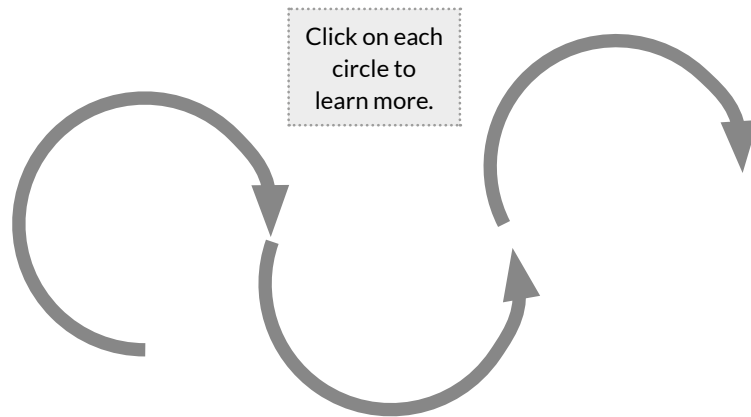
Click on the arrows to see the tips.



3.10 Using interpreters during an interview

Depending on the languages spoken by detainees (and, for that matter, staff or other people who may have relevant information), it is often necessary for the monitoring team to be accompanied by one or more interpreters.

Interpreters need to be selected carefully to ensure:



3.11 Selecting the interpreters and understanding their role

The selection of interpreters needs to take into consideration the dynamics – social, cultural, religious and political – at play in the place of detention. Depending on the situation, careful vetting of an interpreter’s background may be necessary.

In a closed environment, particularly in isolated areas, interpreters can become either very powerful or very vulnerable people (or both) because of the confidential information to which they have access. As a consequence, it may be necessary to consider managing these issues through, for example, regular rotation of interpreters or ensuring that interpreters used for detention monitoring interviews are not the same as those used on a regular basis by the staff and management of the detention facility. If possible, monitors should take the time to get to know interpreters and develop a rapport with them.

It is extremely important that the interpreter is clear about his or her role during talks with the authorities in charge of the detention facility and during private interviews with detainees. The interpreter:

- Does not lead the interview but translates accurately and fully;
- Usually sits to one side and is visible to both the interviewee and interviewer; and
- Has the same duty of confidentiality and impartiality as the monitor.

TIP: Although it seems obvious, it is important to remember that the meeting is between the interviewer and the detainee. So the interviewer must focus on establishing eye contact and rapport with the detainee, not the interpreter.

3.12 Interviewing children

Monitors must always remember that interviewing children requires a special approach. Please read excerpts from UNHCR’s brief on Child Friendly Procedures on interviewing children:

Keep in mind:

- When visiting detainees, it is best never to use local interpreters if there is a possibility they will be considered untrustworthy by interviewees. It may also be unfair for the local interpreters, who may be ‘debriefed’ by the local authorities after a visit, or otherwise put under pressure. It is best to use independent interpreters, clearly seen as coming from elsewhere.
- Interpreting from one language to another always involves the risk of distorting the content, due to factors including differences in language, loss of detail, and confidentiality and trust.
- Just like monitors, during a monitoring visit interpreters can be exposed to traumatic experiences that can cause significant risks, including mental health risks. Like monitors, interpreters should have access to orientation, professional training, supervision and debriefing.





Child friendly communication in interviews

OPENING THE INTERVIEW

- Be aware of physical environment, the Legal Representative or Guardian or other adult support person should sit close to the child, the interviewer opposite the child, and the interpreter to the side of the interviewer and the child.
- Clearly introduce who you are and explain your role and the name and role of other persons present. Verify that the child is comfortable with the persons present in the interview and there is a relationship of trust ('break the ice').
- Equipment (computer, camera, finger printing equipment) should be explained to the child and should not present an artificial barrier between the adult / interviewer and the child.
- Have resources available, for example play or learning material, which might be helpful to engage the child.
- Explain the purpose and process of the interview, what the child can expect from it and what you expect from the child. Gently correct any misconceptions and wrong expectations the child might have and alleviate any fears.
- Acknowledge the difficulty the child might have talking about their issues and concerns.
- Explain the confidentiality of the information shared by the child.

CONDUCTING THE INTERVIEW

- To create rapport and make the child feel at ease, start by asking broad questions on non-sensitive subjects. Use open-ended questions and avoid leading questions or yes/no questions. Topics should be approached from different angles to ensure that the child has understood and has exhausted his/her memory.
- Keep it informal, pleasant and friendly – a discussion rather than a question and answer session - to create an atmosphere of trust. Use a checklist or form to guide you, but ask questions in your own words and order.
- Use simple, age-appropriate language which the child can easily understand. Use verbal and non-verbal communication methods, depending on the age and level of maturity and development of the child.

- Assure the child that there are no right and wrong answers and that it is ok to say that they do not know.
- Collect all information related to circumstances of the flight in a comprehensive but sensitive manner to avoid additional harm.
- Show empathy and patience. Avoid indicating disbelief and/or criticism, be encouraging and show that the information shared by the child is important.
- Listen to the child carefully; resist providing too much guidance or talking excessively. Resist filling silences which you find uncomfortable. Consider the flow of the discussion; do not jump from question to question without introducing new topics.
- Observe the child carefully during interview; identify signs of distress and take appropriate action.
- If protection issues are identified, take timely, appropriate action.
- Never force children to speak. Children should not be forced to discuss or reveal experiences and the lead should always come from the child. Take note of non-verbal signals which indicate that the child does not wish to continue.
- Give the child an opportunity to express her or his feelings and/or concerns and to ask questions. If you cannot answer a question immediately, tell the child you will get back to the question, or inform the child that you do not know the answer.
- Give children a break for water, the bathroom or a few minutes free from your questions.
- Accept the child's emotions and of showing care and sympathy.

CLOSING THE INTERVIEW

- Close the interview in an appropriate manner and on a positive note, including explaining the proceeding, the nature and purpose, and the potential consequences of the interview for the child. Allow time and space for the child to express his or her feelings and concerns as well as ask questions.
- Ensure referral to appropriate services following the interview, e.g. psychosocial support.

Taken from: Chapter 6, Communicating with Children, Field Handbook for the Implementation of UNHCR BID Guidelines (UNHCR, 2011), with some additional points from UNHCR practitioners.



3.13 Interim Assignment

As a monitor, you will undertake a number of tasks in preparation for and during interviews. Examine the tasks listed below and identify ones which are essential and which are not.

		essential	non-essential
1.	Expose exaggerations and lies during interviews		
2.	Use tape recorder		
3.	Use simple language		
4.	Be mindful of reprisals		
5.	Beware of raising expectations		
6.	Speak the same language as the detainee		
7.	Seek consent		
8.	Take notes		
9.	Have spare room for an interview		
10.	Conduct all interviews in pairs		



CHAPTER 4

DRAFTING SKILLS

The monitoring visit is not an end in itself. In many respects it is only a start – the start of a constructive dialogue with the authorities (see Module 3). Reports are a key tool for that dialogue and we examined the way reports should be drafted in Module 4. Let us now look at recommendations which form a crucial part of every visit report. While report writing and formulating recommendations might initially seem like simple tasks, they are actually very complex. In fact, writing reports and recommendations requires specific skills. Formulating meaningful recommendations can be one of the most difficult parts of a monitoring visit.

Recommendations need to be:

Click on the circle to see a tip.



4.1 Formulating effective recommendations: guiding principles

In terms of both content and tone, recommendations must be designed with their target audience in mind. They should be practical and facilitative rather than judgmental or sanctimonious. Their goal is to bring about positive change for people in immigration detention.

Without compromising minimum standards, and bearing in mind that the place of detention is likely to remain in operation, recommendations need to do the following:



Click on each arrow
to see more.





4.2 Formulating effective recommendations: the double SMART model

The quality and usefulness of recommendations developed following detention monitoring visits can be assessed against the 10 interrelated and mutually reinforcing criteria of the double SMART model.

THE DOUBLE S.M.A.R.T. MODEL

+

Click on each box to see more.

In practice, it might be difficult to draft recommendations that comply with all the double SMART criteria. Nevertheless, the monitoring body must carefully consider its recommendations in light of the double SMART criteria. Drafting good recommendations is essential because this provides a solid basis for constructive dialogue with the authorities and enables the monitoring body to follow up on the recommendations' implementation.



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MODULE 6

Chapter 4

4.3 Interim assignment

Please carefully read the three recommendations below and identify the elements of the double SMART model that they satisfy. Type your answers in the boxes.

EXAMPLE 1

Following a visit in January 2017, the monitoring body made the following recommendation at the end of that month:

By the end of 2017, each director of the immigration detention centre should ensure that all incidents involving the use of force by staff are recorded in a single specific register. This record should include the name of the staff member registering the incident; the time and date of the incident; the name(s) and position(s) of the staff involved and other staff present; the name(s) of the person(s) deprived of liberty involved; a detailed description of the incident, including the reasons for the use of force; any equipment used in the incident; and the signature of the supervising officer that reviewed the incident.

Specific

Measurable

Achievable

Results-oriented

Time-bound



Solution-suggestive

Mindful of prioritization,
sequencing and risks

Argued

Real-cause responsive

Targeted



EXAMPLE 2

The director of the immigration detention facility, jointly with the local education authorities, should ensure that children of primary school age who are held in the facility are able to attend the local school for the purposes of primary education, as a matter of top priority.

Specific

Measurable

Achievable

Results-oriented

Time-bound



Solution-suggestive

Mindful of prioritization,
sequencing and risks

Argued

Real-cause responsive

Targeted





EXAMPLE 3

Through the revision of the staff schedules and locations, the director of the immigration detention facility, together with facility's unit directors, should immediately ensure that the number of female officers in the facility's women's unit is adequate for the number of female detainees held there.

Specific

Measurable

Achievable

Results-oriented

Time-bound



Solution-suggestive

Mindful of prioritization,
sequencing and risks

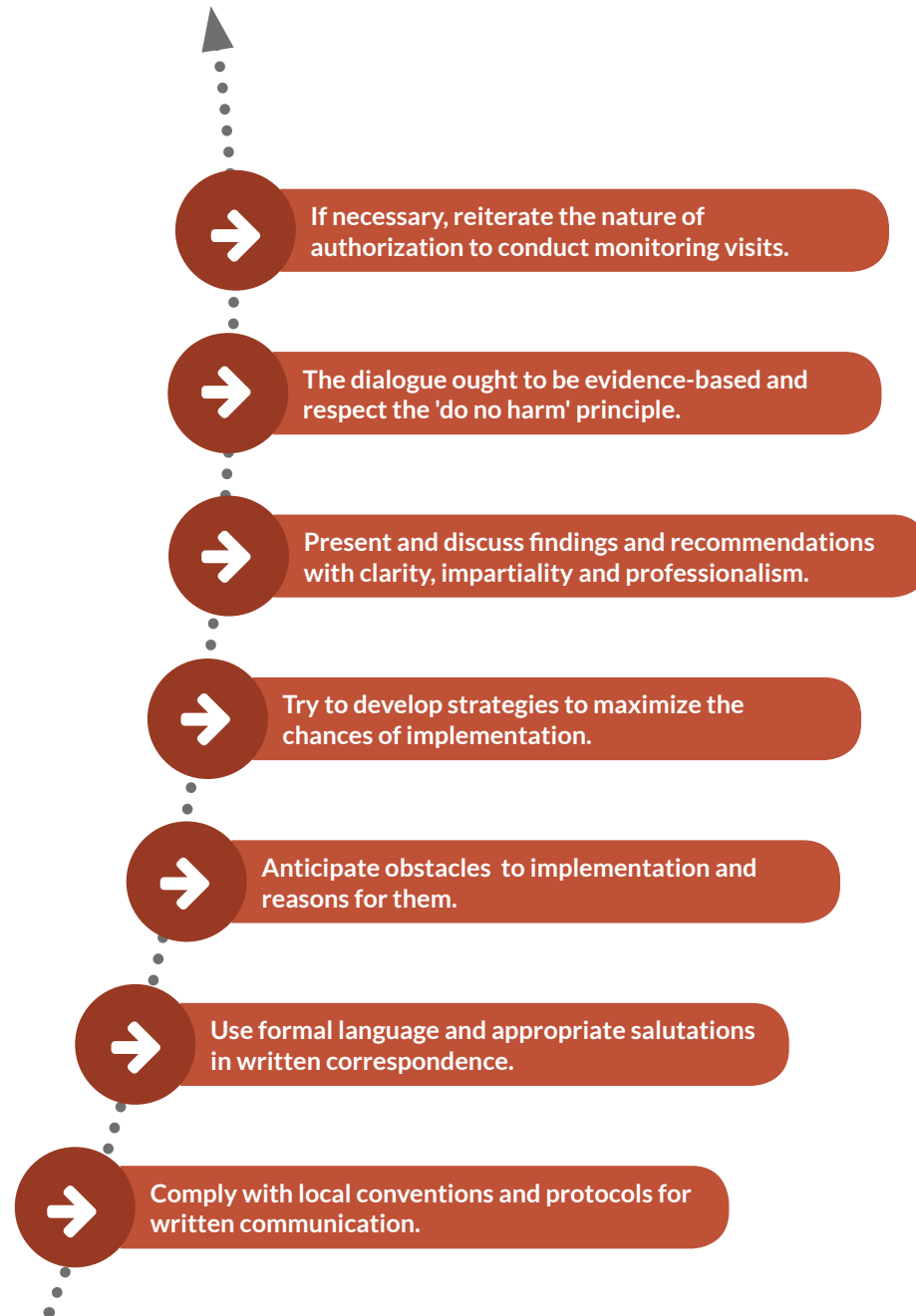
Argued

Real-cause responsive

Targeted

INTERACTING SKILFULLY WITH AUTHORITIES AFTER THE VISIT

As we have seen in Module 4, there are a number of follow-up actions that can be undertaken after the monitoring visit. These actions can be addressed to the relevant authorities at varying levels, and this requires appropriate negotiation skills. The organization of follow-up meetings and roundtables with key authorities needs to be carefully and thoughtfully planned with the following considerations in mind:





5.1 Negotiating skills

The purpose of negotiation for monitoring immigration detention is to ensure monitors' access to detention facilities and also facilitate the constructive dialogue with the authorities about the challenges identified during monitoring and the implementation of subsequent recommendations. It is therefore paramount that monitors develop good negotiating skills and adopt appropriate negotiating practices.

In this chapter, we outline some key negotiation principles that can assist in negotiation efforts, because negotiation skills are not innate. No doubt negotiation suits some people more than others, but everyone's negotiating skills can be significantly enhanced by being more aware (often we negotiate without even being aware of it), more prepared and more structured.

The aims of this short subchapter are to raise 'negotiation awareness', present negotiation as a process and thus offer a possible structure, and offer some insights and practical tips when it comes to preparing, planning, negotiating face-to-face and following up. The content of this subchapter is drawn from the book entitled [Humanitarian Negotiation](#) (Centre for Humanitarian Dialogue, Deborah Mancini-Griffoli and André Picot, 2004).





5.2 The four phases of negotiation

Negotiation can be considered a process with four distinct phases. Let us examine each phase more closely:

■ ANALYSIS

Pre-negotiation analysis involves the following components:

- What do we want? Clear negotiation objectives are prioritized, aligned in-house, compatible with an organization's mandate and complementary to the aims of other humanitarian bodies. It is also useful to think about positions, bottom lines and interests.

Positions – what you say you want.

A specific statement summarizing what you would like to achieve with the negotiation, for example: "I want to carry out weekly monitoring visits in these three detention facilities, where x number of people of concern are detained".

Bottom lines – the least you are willing to accept.

The worst acceptable outcome if you cannot achieve your entire position. It helps you understand which aspects of an agreement you are willing to concede on if the negotiation becomes difficult. Following the above example, you might not want to concede on the specific detention facilities but you could agree to have fewer visits.

Interests – Why you want what you say you want.

The deeper needs that both sides in a negotiation are trying to satisfy in accordance with the various positions they articulate publicly. They motivate any position that a negotiation party takes. Often several interests lie beneath a single position or bottom line. In the above example, the negotiator might want to have access to detention

facilities to carry out monitoring visits because this is part of the organization's mandate to protect the human rights of people of concern. The negotiator might also be interested in enhancing the reputation of the organization, and in advancing their own career.

- With whom do we want that? Identifying counterparts who are open to these objectives, have implementation power and with whom a good working relationship can be established;
- Measuring how compatible our objectives are with those of the other side and trying to maximize the degree of compatibility by identifying possibilities for mutually satisfactory agreements; and
- Assessing how much and what kind of leverage we have. Leverage is the power we have to influence the other party. It is what makes them sit down to negotiate with us. Leverage usually comes in the form of incentives or threats. It can be further increased by credibility, consistency and control of timing.

A few examples of incentives and threats:

Quiet advocacy

When counterparts fail to fulfil the obligations set out in international and regional standards we discussed in Module 5 and Annex to Module 5, we can try to persuade them to take action of their own free will to end these violations. Recognition by negotiation counterparts of international legal standards and their willingness to adhere to them can constitute powerful leverage for us.

Benefits: The authorities may take international legal commitments seriously, either because they are compelled by the formal recognition that this may afford them within the international community, or because they are concerned about the prospect of international isolation or condemnation and, in some cases, even criminal prosecution.

Drawbacks: Often, however, we see that international legal authority is not a very effective source of power, especially in difficult negotiations where counterparts lack political will or are reluctant to acknowledge international standards.

Loud advocacy

Another lever can be the use of the media, particularly public and official reporting of violations.

Benefits: Denunciation and targeted long-term advocacy campaigns can put counterparts under pressure with respect to maintaining their international image and avoiding retaliatory action by States and multilateral bodies.

Drawbacks: Media pressure can easily backfire, so it has to be handled very delicately in humanitarian negotiation situations. Media representatives often have their own idea of what they want to report and convey a message that is different from the one you wanted to communicate. This can cause irrevocable damage to a humanitarian negotiation; once a wrong message has been publicized, it is almost impossible to take it back.

Material assistance

We are often in the position of being able to offer material assistance: food or non-food items, medical supplies or other resources.

Benefits: Material assistance can often serve as a key asset in negotiations. Counterparts obviously are often interested in receiving material assistance.

Drawbacks: Material assistance as a lever in a negotiation, though, can pose some ethical problems: distribution of material assistance in order to get commitment can tarnish your reputation and, even more gravely, you can put the reputation of other humanitarian agencies on the line.

Professional expertise

In general, aid agencies provide specific professional services based on their area of expertise and focus. This holds true in the detention monitoring context as well, where experts can support counterparts with their knowledge and experience. The availability of services and the possibility of working with humanitarians in a strategic partnership can often encourage counterparts to agree to some of the monitors' objectives.

Allies

Allies can be other States, multilateral bodies, such as regional organizations or the

United Nations, international bodies, NGOs, important public figures, the media or any other group that has some bearing on counterparts' decisions.

Benefits: Allies can speak in favour of us and convince counterparts to accept our demands and proposals. Allies can also implement threats, and may have access to places that we do not.

Drawbacks: There are two main risks associated with using allies in your negotiating strategy. First, our neutrality and independence can be called into question if we work too closely with non-humanitarian bodies. Even if it is only by chance that powerful regional or international actors have adopted the same position as a humanitarian organization, the latter is likely to be suspected of having collaborated covertly with them. In more extreme cases, we may even run the risk of being co-opted by our ally, either consciously or unconsciously. All of this could severely damage the reputation of our organization and that of other humanitarian actors. It could provide counterparts with a good excuse not to work with humanitarian organizations. It is important, therefore, to always keep the political agenda and interests of your ally in mind.

The second danger manifests itself when allies put too much pressure on your counterparts. This may evoke strong counter-reactions that make further negotiation impossible.

Fallbacks: Fallbacks are your plan if you fail to reach an agreement or if the other side asks you for concessions that you are not willing to



make. For example, you have been trying to persuade the Minister of the Interior for several months to allow your organization access to detention facilities, with no success. However, you know that other ministries and some parliamentarians support your request and are willing to back you. These people are your fallback in case the Minister of the Interior does not change his or her position. It can also be important to know the fallbacks of the other party.

Credibility: Acting consistently will bestow credibility and builds trust. It ensures that counterparts understand what your organization can do and what its limits are. Keeping your word is important. No promises should be made that you cannot keep, and no threats made that you are not willing to follow through on. Bluffs are not advised in long-term negotiations.

Control of timing: Time has a crucial impact on negotiations. It is easier to influence the negotiation process when there is no time pressure to commit to something. Leverage will also depend on frequency of meetings with the other party, whether it is a one-off situation, or whether it is a prolonged, repeated negotiation.

STRATEGY

Strategy is the overall plan of action to achieve the negotiation objectives defined during the analytical stage.

It involves:

- Planning as many options as possible to maximize compatibility;
- Humanitarian example (See [Humanitarian Negotiation](#), pp. 81–82);
- **Looking through the eyes of others:** How would somebody else deal with the problem at hand? For example, you may be trying to set up safe water points in a village to protect women from rape and abduction, but the community leaders do not agree to the locations you propose. Do not simply insist on your proposals but actively seek the others' views on alternative sites. Can water points be established in other places and meet the needs of all groups? What would a social worker or anthropologist say about the impact of new sites on community dynamics? What would another organization do? What do the women and children think?

- **Tone down the agreement:** If the community leaders do not agree to the location of your water points, will they at least agree to the principle that people need safe water sites? Will they agree to discuss the problem with somebody who is a protection or water specialist? Will they reach a provisional agreement with you that can serve as the basis for future negotiations?
- **Alter the scope of the agreement:** Could you agree to set up one safe water point first, and see how well it fulfils its purpose before establishing others? Could you agree to set up all water points but only for a limited period, and then decide whether to provide more? Could you agree to pilot water points in a certain area? Could you initially reach an agreement with a smaller group of village leaders and enter into a wider agreement with others later?
- **Activating all available levers**, for instance identifying applicable legal treaties and possibilities for investigation and prosecution, contacting the media, approaching your potential allies or drawing up assistance scenarios contingent on the realisation of the negotiation, develop strong and viable fallbacks for the event that negotiations fail, develop measures to increase your credibility and build confidence, think about ways to gain control over time (see [Humanitarian Negotiation](#), pp. 113);
- **Forming a negotiation team** to maximize leverage that has the right level of authority and expertise, a suitable cultural background and personality type, and appropriate facilitation skills. Seniority and gender composition can also play an important role in forming teams;
- Identifying the starting point and **defining the basic approach** that needs to be adopted during the negotiation: plough, keep going if your interests and those of your counterpart can be met rather easily; charm, if you don't have much leverage and cannot put pressure on your counterpart but can adopt a soft attitude and concentrate more on relationship than on the process; in the opposite instance, with much leverage but more conflicts you can insist on substance either in an aggressive or collaborative way; in a low leverage and low compatibility position the only avenue for you might be to attack aggressively; there might also be situations when the only option is to retreat and disengage from negotiations (see [Humanitarian Negotiation](#), pp. 91–92).



- **Choosing the right tactics.** Tactics are special behavioural tools or techniques that help influence the other party (see [Humanitarian Negotiation](#), pp. 93–101).
- **Preparing strong objective and subjective arguments** that are in line with the mandate or mission and the personality of the negotiator, the interests and personality of the counterpart, the negotiation context and the needs of the affected people (see [Humanitarian Negotiation](#), pp. 102–112).

■ FACE-TO-FACE NEGOTIATION

- Create a viable working relationship based on respect, without making concessions on your objectives simply to maintain good rapport. Acknowledge emotions and spend more time listening than talking;
- Analyse and understand the counterpart, even if objectives differ;
- Be aware of cultural specificities, including horizontal (social and context-related) and vertical (inherited) elements. Be open and sensitive to, and respectful of, every new cultural environment; and
- Adhere to some basic professional guidelines when working with or as an interpreter (see [Humanitarian Negotiation](#), subchapter 03-10).

■ FOLLOW-THROUGH

Many negotiations lack agreement on concrete actions. Others are not followed by implementation of the agreed points, or nobody is monitoring implementation and its results. As a consequence, the actual results of negotiations might differ from the desired objectives. To ensure that the negotiated agreement gets implemented and yields adequate results, follow-through is necessary.

Monitoring ongoing negotiations can be accomplished by agreeing on concrete follow-up actions, continuously informing colleagues and counterparts of any new developments; continuous communication between the negotiators and the implementing teams, keeping written records of the negotiation, creating evidence and enabling successors to take the negotiation history into account when devising their strategy; and taking time to re-evaluate your negotiation strategy.

Monitor implementation of an agreement by defining specific indicators of success, choosing the right monitoring mechanism and addressing possible problems like waning commitment and corruption.

Short summary of some of the key good practices in negotiations:

- ➔ Try to bring together the interests of the negotiating parties and maximize leverage;
- ➔ View negotiation as a continuous process;
- ➔ Negotiate as a team;
- ➔ Complement the negotiations of other agencies; and
- ➔ Create successful agreements that meet the needs of protected people, are feasible and sustainable and help build good relationships for future negotiations.

RESOURCE

- ✓ [Humanitarian Negotiation – A Handbook for Securing Access, Assistance and Protection for Civilians in Armed Conflict](#), Center for Human Dialogue, Deborah Mancini-Griffoli, Andre Picot, 2004



FINAL ASSIGNMENT

Read the following statements carefully and identify them as true or false.

		True	False
1.	When interviewing asylum-seekers in detention, the monitor should keep in mind that some of them may be suffering from stress.		
2.	Monitors should always seek written permission from everyone they interview.		
3.	When visiting a place of detention, monitors must always wear the same identification as the authorities.		
4.	Monitors should stop the interview if the interviewee appears to be lying.		





		True	False
5.	The 'do no harm' principle is one of the fundamental principles of interviewing.		
6.	Only female monitors should interview female detainees.		
7.	When meeting authorities after a visit, the monitors should anticipate obstacles to implementation of recommendations and reasons for them.		
8.	Monitors should refrain from using leading questions.		



		True	False
9.	Interviews should take place out of sight and hearing of detention officers and other detainees.		
10.	Repeat visits are one of the safeguards against reprisals.		
11.	Use of a tape recorder may impede establishment of a rapport with the interviewee.		
12.	Monitors must always strictly adhere to checklists.		
13.	Some detainees may perceive monitors as part of the detaining authority.		



		True	False
14.	The use of a tape recorder eliminates the need to take notes.		
15.	Visiting places of detention can be a distressing experience for a monitor.		
16.	Interviews are the most important part of the monitoring visit.		
17.	Negotiating skills are only necessary when the monitors are negotiating access to immigration detention facilities.		



CHAPTER 7

KEY MESSAGES

Interviews are a key component of every immigration detention monitoring visit.

- The purpose of the interview is to find out the asylum-seekers' experiences in relation to the conditions of detention and their treatment in detention.
- Interviews must respect three core considerations: 'do no harm', confidentiality and safeguard against reprisals.

Drafting skills are key to formulating good reports and meaningful recommendations.

- Formulating meaningful recommendations can be one of the most difficult tasks associated with monitoring detention.
- Using the double-SMART model to elaborate recommendations is highly recommended.

Negotiation skills are crucial for ensuring access to detention facilities as well as during the constructive dialogue.

Negotiations should follow four stages: analysis, strategy, face-to-face negotiation and follow-through.



IDM
MODULE 6

Chapter 7



This material was developed within the project 'Global Technical Assistance and Capacity Building Programme to Prevent Detention of Children and to Protect Children and Other Asylum-Seekers in Detention' funded by the European Union.

The views expressed herein can in no way be taken to reflect the official opinion of the European Union.