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Navigating Discretion in Refugee Protection: How Humanitarian Organisations Can Make a Positive Impact?

Marta Glaczynska

School of Advanced Study, University of London
marta.glaczynska@gmail.com

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Abstract

This paper engages with questions of local-level stakeholder interactions that shape the ground-level conditions for refugee protection. In particular, it explores the potential of humanitarian negotiation approaches and tools in efforts to elicit favourable responses from local authorities in support of protection objectives.

The analysis is guided by two theory-based assumptions. First, local-level decision-makers enjoy varying degrees of discretion[1] in the final implementation of asylum and refugee protection policies, depending on different factors, including institutional and individual motivations, objectives, interests or pressure from the stakeholder environment[2]. The second assumption draws from the concept of humanitarian diplomacy and negotiation in which decision-makers can be influenced to the advantage of protection objectives through targeted negotiation, well-informed of the context, stakeholder interests and local power dynamics[3].

Using selected aspects of humanitarian negotiation as an analytical framework, the paper conceptualises the interactions between humanitarian actors and local authorities as a negotiation. It seeks to demonstrate how this perspective can help structure and strategize such interactions to navigate different interests, build relationships and achieve improved refugee protection outcomes at the local level.

Keywords   *Local migration governance; multi-stakeholder governance; humanitarian negotiation; refugee protection; local authorities*

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1   Betts et. al., (2017); Kihato and Landau, (2017); Landau, (2016); Oomen et al. (2021); Sabchev (2021).

2   Ataç et al. (2024); Balcioglu (2023); Betts et. al. (2017); Hinger et. al (2016); Kihato and Landau (2016); Landau, (2016).

3   CCHN (2019); Lempereur (2023); Mancini-Grifolli and Picot (2004); Slim (2003).

Contents

1.   Introduction

This paper examines local level stakeholder interactions that shape the conditions of local refugee protection. In particular, it explores the strategies available to humanitarian agencies seeking positive responses from the local authorities – after all, the first responders[1] to the arrival of persons of concern (POC), and the final implementers of the international refugee protection norms[2] in the governance hierarchy.

Focusing on these actors has its legitimate reasons. The characteristic role of local authorities in refugee protection puts them in a special position from the perspective of the overall refugee protection system. However, in practice, they find themselves entrusted with an unclear mandate, burdened with insufficient capacities and, above all, busy pursuing their regular responsibilities and interests[3]. With such factors, refugee protection is to a large extent implemented inconsistently and subjected to the local discretion[4] shaped by the authorities' ability and will to respond.

Experiences from different contexts illustrate this dynamic. In Turkey, for example, local municipalities have responded to the arrival of Syrian refugees since 2011 despite lacking a formal mandate or dedicated budget from the central state[5]. Their responses, ultimately shaping the quality of refugees' reception and integration, have varied depending on local capacities, political orientations, identities, and economic interests[6]. In Kenya, refugees have been legally entitled to enrol in the national public health insurance scheme, yet it required sustained engagement by a civil society organisation (CSO) addressing the interests of local decision-makers to enable a limited group of refugees realising this right.

These examples illustrate how the implementation of refugee protection is often shaped by local discretion[7] and by authorities' willingness and capacity to respond. On the other end, humanitarian agencies follow their mission dictated by the humanitarian imperative[8] and international norms. They seek to achieve the protection standards recognized by refugee host states and the international community and – in practice – they struggle to bring refugee protection concerns on the local agenda[9].

In this situation discrepancies emerge between what the final implementers – local authorities – can offer and what the refugee protection agencies demand. Yet, the discretion in local action of the former leaves space for potential "openings"[10] for discussion over the quality of reception and, potentially integration of POC. This thesis uses the approach of humanitarian negotiation as a structured framework to describe this dynamic, as well as the factors and possible strategies to mobilise local authorities' engagement in responses relevant to the protection of persons in forced displacement.

Humanitarian negotiation is "a tool to enable, facilitate and sustain humanitarian action (…)"[11], conceptualized to navigate challenges of conflicting interests and fundamental challenges between humanitarian organisations and stakeholders to conflict and other crises. Analogically, this study looks at how humanitarian organisations can navigate conflicting or divergent interests in their interactions with local authorities as stakeholders shaping the quality of local level protection of POC.

Guided by humanitarian objectives and principles, humanitarian negotiation aims to ensure humanitarian access, protection, and assistance[12] for conflict-affected civilians. This includes efforts to "preserve humanitarian space and promote better respect for international law"[13], reflecting the broader humanitarian

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1   Marrakech Mayors Declaration (2018).

2   Betts and Orchard (2014).

3   Ataç et al. (2024); Balcioglu (2023); Betts et. al. (2017); Hinger et. al (2016); Kihato and Landau (2016); Landau, (2016).

4   Betts et. al. (2017); Kihato and Landau (2016); Landau (2016); Oomen et al. (2021); Sabchev (2021).

5   Balcioglu (2024); Betts et al. (2017), p.23; Kale and Erdogan (2019); Polat and Lowndes (2022), p. 59.

6   Balcioglu (2024); Betts et al. (2017).

7   Betts et. al. (2017); Kihato and Landau (2016); Landau et al. (2016); Oomen et al. (2021); Sabchev (2021).

8   Sphere Association (2018), p. 6.

9   Key informant interview (2025).

10   Ibid.

11   McHugh and Bessler (2006), p. 2.

12   CCHN (2019); Mancini-Grifolli and Picot (2004); McHugh and Bessler (2006).

13   McHugh and Bessler (2006), p. 1.

mission relevant to this study.

The concept of humanitarian negotiation, with its access approach[14] that prioritizes pragmatic agreements[15] over rights claims and accusations, seeks to settle what Landau and other researchers frame as "conflicting imperatives"[16] – especially the responsibility to protect the persons of concern and the responsibility to promote their legal rights[17]. In other words, humanitarian negotiation provides the perspective and tools to balance "the necessity of political engagement with the demand for political neutrality"[18] equally recognized in the field of refugee protection and in humanitarian action[19].

Using insights from Landau and other researchers' account of RefugePoint's negotiation of bureaucratic inclusion in Nairobi[20], this paper examines how humanitarian negotiation tools can enhance local efforts to improve refugee protection. It is argued that - using a structured approach of humanitarian negotiation - protection agencies can deliberately work on mechanisms influencing local decision-makers' actions in this field. In particular, such an approach will help navigate local authorities' interests in ways that shape the exercise of local discretionary power toward improved protection conditions, even where top-down guidance prefers restrictive responses. Furthermore, with their relational focus and emphasis on recognising counterparts' perspectives, approaches used in humanitarian negotiation can foster more sustainable relationships between local authorities and non-governmental actors. Finally, it is believed that successful negotiation processes and agreements can have a collateral effect of capacity building benefiting both parties, involving the mainstreaming of POC protection considerations in local governance and developing inclusive responses to residents' needs.

Following this introduction, the literature review chapter presents key concepts and insights from the research literature relevant to this study, including local-level stakeholder dynamics in refugee protection, multilevel governance perspectives, and humanitarian diplomacy and negotiation. Next, the research methodology is explained. Then the analysis chapter applies the humanitarian negotiation framework to empirical samples identified in context literature. Finally, the concluding chapter collects the relevant observations obtained in this research with regards to the research question and its desired contribution.

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14   Key informant interview (2025).

15   CCHN (2019), p. 48.

16   Kihato and Landau (2016), p. 407.

17   Ibid. (adapted).

18   Kihato and Landau (2016), p. 413.

19   CCHN (2019); Mancini-Grifolli and Picot (2004); McHugh and Bessler (2006).

20   Kihato and Landau (2016); Landau et al. (2016).

2.　　　Literature review

This paper draws from and seeks to contribute to the existing research on norm implementation explored in the international relations[21] and human rights studies[22], migration governance from political[23], social[24] science and migration studies[25], and humanitarian diplomacy in the field of humanitarian studies[26]. All these perspectives recognize the complex dynamics and negotiation processes shaping the implementation of - in this case - protection norms, and highlight the role of the local level as the final interpreters and implementers of norms on the ground.

2.1　　　Paths of norm implementation – from the abstract of international agreements to local discretion

Internationally agreed norms such as the refugee protection framework vary in their domestic implementation by country[27] due to what Betts and Orchard term the "normative institutionalization-implementation gap."[28] Against the abstract terms of international agreements, they explain, internationally institutionalized norms undergo a process of interpretation and adaptation in the course of domestic implementation. They explain that "legislation alone does not provide protection"[29] but requires transposition at subnational levels. Yet, the norms translated into national legal and policy frameworks do not just trickle down to local implementation[30]. Subnational actors interpret and adapt the given norms to the existing local norms and beliefs, becoming "norm-entrepreneurs, norm vectors, or even norm spoilers in ways that fundamentally transform the process of norm contestation."[31] That brings about different outcomes per locality, as projected by Betts et al. in their theory of local variation[32]. Moreover, local authorities and bureaucracies enjoy a certain level of discretion[33] in their policy- and decision-making which might differ from the national policy guidance and depend on their interests and motivations[34].

Risse and Sikkink engage with norm implementation from another angle – focusing on behavioural transformation of human-rights violating states. Their "spiral model"[35], consisting of five non-linear phases of norm socialization, emphasizes the dynamics of communication and reactions between the norm-violating state and stakeholders such as international human rights bodies, other states, international human rights organisations, the domestic opposition and civil society. Using the concept of argumentative rationality, the researchers explain the gradual process of persuasion and change effected through varying degrees of stakeholder engagement across the stages. Risse[36] elaborates on argumentative rationality emphasizing the role of influence by means of social interaction and the process of arguing. In simple terms, argumentative rationality relates to negotiation and consensus-seeking between parties over an issue which – in case of this paper – is the protection of refugees and asylum seekers.

21　　Betts and Orchard, (2014).

22　　Risse, (1997); Risse and Sikkink (1999).

23　　Betts et. al., (2017); Kihato and Landau, (2017); Landau, (2016).

24　　Balcioglu (2024); Polzer (2009).

25　　Ambrosini (2021); Ataç et al. (2024); Caponio and Jones-Correa (2018); Oomen et al. (2021); Sabchev (2021).

26　　McHugh and Bessler (2006); CCHN (2021a); CCHN (2021b); CCHN (n.d.); Erni et al. (2021); Ferhan (2022); Mancini-Griffoli and Picot (2004); Toole (2001); Turunen (2020a); Turunen (2020b).

27　　Betts and Orchard, (2014); Risse, (1997).

28　　Betts and Orchard (2014).

29　　UNHCR (1997).

30　　Betts et. al., (2017); Kihato and Landau, (2017); Landau, (2016).

31　　Betts and Orchard (2014), p. 7.

32　　Betts et. al., (2017).

33　　Betts et. al., (2017); Kihato and Landau, (2017); Landau, (2016); Oomen et al. (2021); Sabchev (2021).

34　　Ataç et al. (2024); Balcioglu (2023); Betts et. al. (2017); Kihato and Landau, (2017); Landau, (2016).

35　　Risse and Sikkink (1999).

36　　Risse (2000).

2.2   The development process of local asylum

2.2.1   Migration governance frameworks

Migration studies scholars[37] have equally recognized the discrepancy between the "abstract of national political discussions"[38], following the "local turn"[39] in their field to explore the dynamics of migration policymaking on the ground. The perspective shift "from government to governance", where the latter considers the contribution of a variety of state and non-state stakeholders to the final outcome of migration and asylum policies is part of this trend and relevant to this research.

Multilevel governance (MLG) was found to be a frequently used framework[40] for relevant theoretical and empirical research. It was originally developed to capture the erosion of state sovereignty and power shifting in the process of European integration[41]. Caponio and Jones-Correa speak of MLG as arrangement meeting the following three conditions:

> "1) it has to challenge vertical, state-centred formal hierarchies of distribution of power and responsibility, and, at least to some extent (…), state/society boundaries; (2) actors in MLG arrangements have to be interdependent in the sense that a certain policy cannot be carried out by just one level of government, but requires the involvement of other tiers and eventually of nonpublic actors; and (3) this interaction should imply some degree of bargaining and negotiation among all of the involved institutions and actors."[42]

Nevertheless, the framework has been criticized for its presumably insufficient engagement with non-public actors[43] and its limited focus on merely the formal aspects of policymaking[44] including "relegat[ing] migrants and migration to objects of regulation."[45] Further concepts captured during the literature review widen the perspective by such considerations. They emphasize the role of the non-governmental sector and civil society in shaping the reception and integration of migrants (including asylum seekers and refugees). Others explore solidarity movements (especially in the context of "the long Summer of migration" in Europe in 2015), and their informal arrangements offering access to otherwise unavailable or insufficient assistance and services.

The "battleground" concept of Ambrosini[46] claims to draw more focus than MLG on the 'horizontal' governance aspect and civil society in particular. It furthermore recognizes the role of divergent relations in the migration governance process. Battlegrounds are "fields of confrontation among different stakeholders in migration policies"[47] who seek to achieve their interests by building coalitions and oppositions.

Hinger et al.[48] promote a regime approach to grasp the complexity of the "local production of asylum."[49] Its shaping factors include the diversity of stakeholders of different levels, their form of organisation and power; the intertwined character of stakeholder responsibilities and relations; as well as their different situation perceptions shaped by different interests, values and opportunities. The same dynamics is in focus of the considerations and tools of humanitarian negotiation discussed in this research.

The concept of "local zones of negotiation"[50] seems to structure the interactions to more of negotiation packages than physical localities, the outcomes of which are "specific local(ised) problem definitions as

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37   See e.g. Ambrosini (2021); Ataç et al. (2024); Caponio and Jones-Correa (2018).

38   Doomernik, Jeroen (2018).

39   Penninx et al. (2006).

40   Alcantra and Nelles (2014); Ambrosini (2021); Campomori and Ambrosini (2020); Caponio and Jones Correa (2018); Polat and Lowndes (2022); Sabchev (2020).

41   Caponio and Jones-Correa (2018).

42   Caponio and Jones-Correa (2018), p. 1996.

43   Ambrosini (2021), p. 378.

44   Sabchev (2020), p. 1448.

45   Hinger et al. (2016), p. 443.

46   Ambrosini (2021); Campomori and Ambrosini (2020).

47   Ambrosini (2021), p. 379.

48   Ataç et al. (2024); Hinger et al. (2016).

49   Hinger et al. (2016).

50   Hinger, Pott, and Schäfer (2016); Pott and Tsianos (2014).

well as responses to migration."[51]

Sabchev's "policy assemblage"[52] perspective of municipality-level refugee response differs from the MLG policy focus by including the contextual dynamic of a given situation, structuring the response in 'configurations', with different outcomes to refugee reception and integration in the same context over time.

Screening through the briefly discussed frameworks and approaches, a dynamic image of interactions of diverse actors emerges. Each set of actors, with their own interests, capacities and methods of action[53] shape migration policies, including asylum, decision-making and the quality of reception and integration on the ground. The outcomes of such dynamics, predominantly discussed in the contexts of European countries after the "refugee crisis in Europe" in 2015[54], include several possible configurations of local responses, following Campomori and Ambrosini:

> "a) closure by local governments versus civil society activism: in this case, municipalities not only reject asylum seekers' reception, but contrast private solidarity as well; (b) tolerance, when municipalities do not accept to host asylum seekers, but implicitly admit that pro-refugees actors establish support services outside the public domain and without receiving public funds; (c) institutional activism (by local governments) versus anti-immigrant mobilizations, when municipalities agree to engage in asylum seekers' reception together with civil society but have to face demonstrations and protests by far-right movements and local residents; (d) cooperation, when a framework of acceptance is established, and public authorities work with NGOs and volunteers without encountering strong opposition."[55]

In the vertical aspect, i.e. in relation to local authorities' interaction with a national government, Oomen et al. identify the following possible "strategies of divergence" in migration policies: defiance, dodging, deviation, and dilution[56].

The picture of possible constellations of relations with potentially different result gives a sense of certain flexibility – or discretion – at the local level over how migrants including refugees and asylum seekers can be received. A key question for understanding local governance mechanisms concerns how they function[57], including the "conditions and factors which favour different outcomes."[58] In this study, this involves analysing "processes of negotiation involving diverse actors, strategies, [and] discourses"[59], as suggested by Ataç et al. and pursued in this research.

Oomen argues that "as a general trend, mayors and municipalities are increasingly making migration policies all over the world"[60] including in Africa and Asia. However, the most research cases referenced above discuss civil solidarity movements or municipal engagement – phenomena applicable in the context of European decentralization. What leverage can the non-governmental sector – and, specifically in this paper, humanitarian agencies with a refugee protection mandate – exercise? And what can the local authorities there do and want for forcibly displaced populations?

Polat and Lowndes described the municipal-level responses to the influx of Syrian refugees to Turkey in the MLG framework[61]. They found that MLG has been rarely applied in non-European migration and refugee

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51   Hinger in Ataç et. Al. (2024), p. 726.

52   Sabchev (2020).

53   Here also the typology of 'solidarity' by Augustin and Jorgensen can be mentioned who differentiate between "autonomous", "civic" and "institutional" solidarity depending on the actor's relationship with the formal structures. See: Agustín and Jørgensen (2019).

54   See e.g.: Ataç et al. (2024); Campomori and Ambrosini (2020); Hinger et al. (2016); Kos et al. (2016); Kreichauf and Mayer (2021); Oomen, B. et al. (2021); Sabchev (2021); Vandevoordt and Fleischmann (2021); Vianelli and Nienaber (2024).

55   Ambrosini (2021), p. 384; referring to: Campomori and Ambrosini (2020).

56   Oomen et al. (2021).

57   See: Ambrosini (2021), p. 398f.

58   Ibid.; see also: Campomori and Ambrosini (2020), p. 16f.

59   Ataç et al. (2024), p. 719.

60   Oomen, Barbara (2019), p. 124.

61   Polat and Lowndes (2022).

contexts except for Fakhoury[62] on Lebanon and Jordan and Marti[63] on Singapore. Their research helped to demonstrate how the Turkish municipalities responded to the influx despite lacking a legal framework, clear responsibilities nor funding, "generating capacities by working with actors at other governance levels and in non-governmental spaces, via formal and informal networks."[64] The parallel processes on the part of the "actors in non-governmental spaces" would be interesting – how were partnerships with municipalities developed, how were agencies' interests communicated and how was influence for their objectives against the local ones pursued? While no research could be found that would directly answer such questions, the contributions of Balcioglu[65], Betts et al.[66] and Cammet and Şaşmaz[67] on the Turkish context shed a light on local authorities' and bureaucrats' motivations to engage in refugee responses and partnerships with refugee protection agencies. They explain how the differing interests of institutions and individual actors shape both the format and character of responses. This includes determining individual refugees' access to assistance and services, as well as the pursuit or rejection of partnerships with non-governmental organisations (NGOs).

Concepts identified in the field of refugee protection and humanitarian studies can complement such insights and help to understand whether humanitarian organisations can navigate the local environment, its interests and context-specific dynamics to improve the protection conditions for refugees and asylum seekers against the status quo or restrictive central policies. These concepts are discussed in the remaining sections.

2.2.2   Humanitarian and refugee protection perspectives

It can be argued that, as in migration studies, refugee protection has experienced a "local turn". The relevance of pursuing partnerships with local authorities and other actors as new stakeholders has been initially addressed in relation with the growing engagement with urban displacement.[68] Further research has discussed self-negotiated protection in the context of local integration[69], highlighting the normative discrepancy between the international refugee protection regime and local, context-specific norms and factors facilitating refugees' access to goods. This research would correspond to previously discussed insights and concepts on norm implementation and migration governance frameworks, yet in the context of the protection objectives and mandate.

Landau, Kihato and others[70] discuss how urban displacement contexts require mandated agencies' meaningful engagement with local authorities and stakeholders to make refugee protection context-appropriate and lasting. Prerequisite to this is "enhanced local literacy"[71] with the agency's responsiveness to the local norms, interests, power dynamics, and the integration patterns of the people of concern. This gives way to navigate possible opportunities including through "stealth humanitarianism" as in a case highlighted by these researchers where an agency's effort to include refugee clients under the local health insurance scheme met with performance aspirations of a local bureaucrat[72]. Yet, such paths of engagement are simultaneously the point where tension with the humanitarian mandate[73] of protection agencies emerges. This deterring aspect limits refugee protection interventions to "legalism and technocratic engagement"[74] – strategies agencies resort to in presumed pursue of humanitarian neutrality. Yet, as Polzer argues[75], negotiating local protection is inevitably part of local politics, in which reference to refugee status and international protection norms carries limited weight against local power arrangements and interests.

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62   Fakhoury (2019).

63   Marti (2019).

64   Polat and Lowndes (2022), p. 51.

65   Balcioglu (2024).

66   Betts et al. (2017).

67   Cammet and Sasmaz (2022).

68   UNHCR (2009); Crisp (2012); Landau et al. (2016); Landau and Kihato (2017); Landau (2018).

69   Landau et al. (2016); Landau and Kihato (2017); Landau (2018).Polzer (2009); Romol (2013).

70   Landau et al. (2016); Landau and Kihato (2017).

71   Landau and Kihato (2017), p. 407.

72   Landau et al. (2016); Landau and Kihato (2017).

73   United Nations General Assembly (1950), ANNEX, pt. 2.

74   See: Landau and Kihato (2017), p. 407.

75   Polzer (2009).

This points back to questions on norm implementation and the dynamic of the local provision of asylum addressed earlier. The regime developed by the "refugee protection industry"[76] is not the only one claiming validity in the refugee hosting environment, but it meets the validity claims of other stakeholders and is consequently negotiated with more or less successful outcomes to the protection objectives.

Zooming out the focus to the paradigm level and humanitarian self-understanding, Hilhorst's[77] distinction between the classical and resilience humanitarianism appears helpful in sorting approaches and understanding which is conducive to multi-stakeholder collaboration and negotiation. Classical humanitarianism, corresponding to Landau's legalism, technocratic engagement and concerns over the humanitarian neutrality, builds on the Dunantist paradigm underpinned by humanitarian principles and ethics[78]. At the heart of classical humanitarianism are the humanitarian agencies themselves who have the lead in humanitarian responses and exclusive claim to operating in the 'humanitarian space'. Conversely, resilience humanitarianism corresponds to MLG thinking and multistakeholder engagement of previously discussed literature[79]. It perceives humanitarian action through the prism of "interactive"[80], "multi-actor"[81] governance in which humanitarians are just one of many actors operating in the "open space"[82], where different interactions happen beyond the exceptional state of crisis. The humanitarian negotiation concept corresponds to the latter paradigm, engaging with questions on finding consensus with the diversity of stakeholders, their perceptions and their expectations.

This "paradigm shift"[83] towards resilience thinking has increasingly been pursued on the international humanitarian and refugee protection agenda. That includes the commitments of the World Humanitarian Summit to bridge humanitarian interventions with development (humanitarian-development nexus) and strengthen the first responder capacities (localisation)[84], making humanitarian action more appropriate, sustainable and cost-efficient. The Comprehensive Refugee Response Framework[85] (CRRF) and the Global Compact on Refugees[86] (GCR) explicitly promote development-led multi-stakeholder approaches in responses to refugee crises and protracted displacement, dedicating separate considerations to the role of the local level. As research in the 2020s remains critical of the implementation of international commitments regarding engagement with local stakeholders[87], examining current practices and lessons learned at this level is both legitimate and relevant.

2.3   Exploring humanitarian negotiation for refugee protection contexts

Existing scholarship has, albeit not explicitly, addressed the overarching topic of this thesis, namely the negotiation strategies of refugee protection organisations vis-à-vis local authorities. The body of research approaches negotiation from different angles and draws on a range of concepts to examine the interactive dynamics shaping the implementation of norms on the ground. However, empirical studies that examine the actual processes of refugee protection negotiation at the local level remain limited.

Betts[88] discussed how UNHCR attempted to increase the buy-in of international refugee protection from different states through persuasion, using arguments different than humanitarian obligations – but his focus is international, not local. Evans-Barnes' promising title on UNHCR's efforts to expand the protection space for the Iraqi refugees in 2009 limited itself to presenting these more as 'promoting' and capacity

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76   Ibid., p. 95.

77   Hilhorst (2018).

78   Hilhorst (2018).

79   See e.g. Ambrosini (2021); Ataç et al. (2024); Caponio and Jones-Correa (2018).

80   Hilhorst et al. (2019), p. 113.

81   Ibid.

82   Hilhorst (2018).

83   Binkert et al. (2021); Zetter (2019).

84   World Humanitarian Summit (2016a); World Humanitarian Summit (2016b).

85   United Nations General Assembly (2016).

86   United Nations General Assembly (2018).

87   Binkert et al. (2021); Nyende (2021).

88   Betts (2009).

building without addressing the actual negotiation processes[89]. Landau et al. discussed earlier give an indication of how motivations and interests can be matched between humanitarian and personal professional aspirations – but did not go deeper into how local opportunities can be identified and the negotiation process conducted, although their proposed Intervention Matrix[90] might serve corresponding preparations[91]. Polzer, again, provides a very blunt model of politically negotiated rights[92] framed with three questions relevant to understanding local integration or protection contexts, but not a hands-on guidance on the negotiation conduct. Among the IFRC resources limited guidance on negotiations for the access and protection of vulnerable migrants could be found, but again, without addressing the "how" in approaching the stakeholders. Database searches for "negotiation" in "refugee protection" contexts bring either results relating to negotiating humanitarian protection in conflict or to migration governance frameworks addressed earlier[93]. Meanwhile, the Centre of Competence on Humanitarian Negotiation[94] (CCHN) applies the humanitarian negotiation concept and tools to migration and refugee crises[95], including protracted forced displacement which encourages further exploration in this paper.

Humanitarian negotiation is a recent concept and an emerging field[96] in humanitarian action. Although it has been increasingly required in humanitarian practice with the new trends in conflict since the 1980s[97], the first attempts to systematize it as a concept and tool in humanitarian work had not been undertaken since the 2000s[98]. The definition of humanitarian negotiation has been applied exclusively to humanitarian agencies negotiating in armed conflict contexts with parties to a conflict[99], and in a wider sense to negotiations undertaken by humanitarian, development and human rights organisations for assistance and protection purposes[100]. This dissertation draws from the latest understanding of humanitarian negotiation promoted by CCHN as:

> "the interaction between humanitarian organisations and their counterparts to:
>
> • establish and maintain the presence of humanitarian organisations in crisis environments (conflicts, disasters, migration flows, epidemics…)
> • ensure humanitarian access to people in need, and
> • deliver humanitarian aid and implement protection activities."[101]

In such wording, the application of the definition becomes feasible for protection contexts in non-conflict refugee hosting settings.

Also, conceptually, humanitarian negotiation shares with previously discussed concepts the recognition of the multiplicity of stakeholders in the environments in which humanitarian objectives are pursued, and the corresponding need to navigate their interests[102]. The concept equally emphasizes the challenges of conflicting norms[103] and the unique character of final outcomes in each situation. Yet, interactions that migration governance frameworks frame neutrally as "stakeholder dynamics" are approached with more caution in humanitarian action, where they are understood as political engagements potentially at odds with humanitarian principles. Political dilemmas come even more to the foreground with the recent trends of resilience-[104] and human-rights-based[105] approaches in humanitarianism. Finally, as Turunen

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89   Evans Barnes (2009).

90   Landau et al. (2016), p. 17.

91   Ibid.

92   Polzer (2009), pp. 99.

93   See: Subsection "Migration governance frameworks".

94   https://frontline-negotiations.org/.

95   CCHN (2021a); CCHN (2021b); Ferhan (2022); further references can be found on the online platform available to members of the community of practice promoted by the CCHN.

96   Grace (2015).

97   Toole (2001).

98   See e.g. Mancini-Grifolli and Picot (2004); McHugh and Bessler (2006).

99   Mancini-Grifolli and Picot (2004), 19.

100   McHugh and Bessler (2006), p. 1.

101   CCHN (2024).

102   E.g. CCHN (2019); Lempereur (2023); Mancini-Grifolli and Picot (2004); Slim (2003).

103   CCHN (2019); Slim (2003).

104   See above on resilience humanitarianism and the international agenda on HDN and development-led approaches to displacement.

105   See: e.g. Mills (2005); Toole (2001), p. 9.

argues, humanitarian diplomacy – understood as an umbrella concept encompassing negotiation – serves to advance "humanitarian interests and goals"[106], situating its practices between humanitarianism and politics. Instead of avoidance, this inevitable aspect of the humanitarian mandate requires cognisant navigating[107] in the form of humanitarian diplomacy which becomes a responsibility[108], rather than an option. Humanitarian negotiation is its function and manifestation at the 'frontline'[109].

While the practical dimensions of humanitarian negotiation have been discussed predominantly in relation to armed conflict, a broader understanding of negotiation, combined with the humanitarian mandate for refugee protection set out in the UNHCR Statute[110], suggests that such practices are equally relevant to refugee protection contexts. Breslawski refers to negotiation as "bargaining"[111] finalised with a transactional framework developed by the negotiating parties[112]. Lempereur sees humanitarian negotiation as a phenomenon and skill of leveraging the potential of "relational, transactional and process moves"[113] in absence of actual power given to humanitarians over counterparts. Slim explains this as a parallel to marketing which, to be successful, requires developing strong customer relationships, an excellent knowledge of customers' needs and a corresponding, tailored product[114]. Relating to the previously addressed scholarship exploring stakeholder motivations and interests, he points to their different sources including the non-rational aspects that might influence the outcome of a negotiation such as "coincidence, loyalties, friendship, shared experience, admiration, envy, ambition."[115] The CCHN, author of the recent Field Manual on Humanitarian Negotiation[116], has been engaging with different scenarios from different frontline contexts, including previously mentioned migration crises and protracted displacement. It can be therefore perceived as a source for practitioners' inputs on the subject of the following research.

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106   Turunen (2020a), p. 466.

107   Turunen (2020a).

108   IFRC (2007).

109   Turunen (2020b).

110   United Nations General Assembly (1950), ANNEX, pt. 2.

111   Breslawski (2022), pp. 10.

112   Ibid.

113   Lempereur (2023), p. 377.

114   Slim (2003).

115   Ibid. p. 18.

116   CCHN (2019).

3.   Research methodology

3.1   Research question

The research question builds on two theory-based assumptions: one is that local-level decision-makers enjoy varying levels of discretion[117] in the final implementation of asylum and refugee protection policies depending on different factors, including institutional and individual motivations, objectives, interests or pressure from the stakeholder environment[118]. The other one, originating from the concept of humanitarian diplomacy and negotiation, is that decision-makers can be influenced to the advantage of protection objectives through targeted negotiation, well-informed of the context, stakeholder interests and dynamics[119].

It is of interest to this paper to establish how negotiation efforts of humanitarian organisations can interact with the interests and motivations of local decision-makers to bring about improved local reception and protection conditions.

The guiding question for this research is therefore: "How can humanitarian agencies engage with local authorities to positively influence their decisions affecting the local reception and integration of refugees?"

The term 'refugee' includes in this thesis persons falling under the definition of the 1951 Refugee Convention or applicable regional protection agreements, including prima facie refugees, and those commonly considered as refugees who seek protection in a state that has not committed to any international protection framework.

The term 'persons of concern' (POC) refers to internally displaced persons, refugees and asylum seekers[120] and is used in this thesis following the reference literature by prof. Landau et al. which had a strong impact on the concept and evidence in this paper.

The term 'protection' in this thesis means "all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e., human rights, humanitarian and refugee law)."[121]

The link between the negotiation for refugee protection and humanitarian negotiation is derived from the recognized humanitarian character of refugee protection and asylum[122], the common understanding of humanitarian action[123] and humanitarian negotiation[124].

The common humanitarian-paradigmatic background of refugee protection and humanitarian action allows us to look at negotiation efforts under the former through the prism of humanitarian negotiation. This again requires consideration of its distinct feature against other negotiation disciplines (such as political or commercial negotiations) which is its commitment to theoretically non-negotiable[125] humanitarian

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117   Betts et. al., (2017); Kihato and Landau, (2017); Landau, (2016); Oomen et al. (2021); Sabchev (2021).

118   Ataç et al. (2024); Balcioglu (2023); Betts et. al. (2017); Hinger et. al (2016); Kihato and Landau (2016); Landau, (2016).

119   CCHN (2019); Lempereur (2023); Mancini-Grifolli and Picot (2004); Slim (2003).

120   Kihato and Landau (2016), p. 408f.

121   Sphere Association (2018).

122   See e.g.: the UNHCR Statute which orders the work of the High Commissioner to be "of an entirely non-political character; (…) humanitarian and social and (…) relat[ing], as a rule, to groups and categories of refugees". In: UN General Assembly (1950), ANNEX, pt. 2;

The unanimously adopted UN Declaration on Territorial Asylum framed asylum as a "peaceful and humanitarian act" in which the State exercises "its sovereignty, including in pursuance of its international obligations". In: UN General Assembly (1967). Declaration on Territorial Asylum - A/RES/2312(XXII), 14 December 1967, https://www.refworld.org/legal/resolution/unga/1967/en/10415 [accessed 27 November 2024]

123   Humanitarian action comprises according to the Inter-Agency Standing Committee (IASC) "assistance, protection and advocacy in response to humanitarian needs resulting from natural hazards, armed conflict or other causes, or emergency response preparedness. It aims to save lives and reduce suffering in the short term, and in such a way as to preserve people's dignity and open the way to recovery and durable solutions to displacement". In: IASC (2015), p. 8.

124   In words of Mancini-Grifolli and Picot, humanitarian negotiation aims "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". In: Mancini-Grifolli and Picot (2004), p. 19.

125   Toole (2021), p. 7.

principles[126] and relevant international norms. The conflicting modus operandi of principled, norm-based humanitarian action versus humanitarian negotiation sanctioning compromise have been a source of discussions focusing predominantly on the dilemmas in conflict contexts where human lives and dignity are at stake[127]. Assuming a parallel conflicting relation between the principles and norms guiding refugee protection on the one hand, and the realities of pursuing these on the ground on the other, it appears relevant to look at how the applicable norms are challenged and navigated by humanitarian actors in refugee protection contexts. Bearing this in mind, the following questions complement the guiding research question stated above:

- What challenges can arise in humanitarian agencies' negotiations of local refugee protection with local authorities?
- What are the possible trade-offs for the protection outcomes of such negotiations?

3.2   Research methodology

This research applies a constructivist perspective [128], focusing on qualitative data that can describe the expected different constellations of factors characterizing negotiations.

Due to time constraints, the project draws on relevant secondary sources identified in the reviewed literature instead of the initially planned primary data collection with negotiation practitioners. The analysis focuses on material describing the processes and dynamics accompanying local authorities' decision-making that affects local refugee protection conditions.

To supplement literature findings, one in-depth key informant interview[129] was conducted with a technical expert affiliated with an organisation specialized in humanitarian negotiation research and advocacy. The respondent wished to remain anonymous, therefore, the reference in this study appears as "Key informant interview (2025)".

Since the project focused on the interaction dynamics and factors rather than on researching specific refugee contexts, it was decided against narrowing it to one particular geographic location. Instead, a negotiation scenario matrix was applied to accommodate the different possible constellations of such determinants as power, stakeholder influence, or individual traits of the counterpart.

The data analysis followed the method of content analysis[130], with the aim of collecting sets of qualities describing the process and factors relevant for negotiating refugee protection. The process included the selection and reduction of the relevant material to coding units guided by a set of pre-defined nominal categories derived from selected manuals on humanitarian negotiation[131]. Given the volume of guidance, slight differences in structuring, terminology and focus aspects, the analysis was finally structured by generic categories of the key aspects of humanitarian negotiation. These were organized into a negotiation scenario matrix that gave the structure to the analytical chapter.

3.3   Ethical considerations

To simplify the research and focus on how effective protection and integration of refugees can be pursued against the local politics and interests, it is assumed that these are the sole objectives of humanitarians.

Furthermore, the project discusses but does not directly involve the final beneficiaries of negotiation

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126   CCHN (2024); Lempereur (2023), Turunen (2020).

127   See e.g. Erni et al. (2021).

128   Castles (2013).

129   Bernard (2011); Kvale and Brinkmann (2009); Rowley (2012).

130   Gray (2014); Mayring (2014).

131   McHugh and Bessler (2006); CCHN (2019); Mancini-Grifolli and Picot (2004).

efforts – persons in forced displacement situation – who are undoubtfully relevant actors and negotiators in the researched subject. Their negotiation capacity and strategies is in this paper considered a separate, not less relevant topic in need for further exploration.

4.   Analysis

The following chapter discusses the research results in ten sections addressing the key terms and aspects of humanitarian negotiation practice projected on the focus context.

Every section includes a theoretical introduction followed or intertwined with sample scenarios. In addition, RefugePoint's negotiation of refugees' access to the national health insurance in Nairobi has been selected as a test case probed in every discussed aspect. The analysis builds on publicly available information and supplements it with structured analytical interpretation to explore potential negotiation dynamics.

RefugePoint, a Nairobi-based CSO supporting urban refugees and promoting self-reliance, set a precedent in refugee protection in Kenya by successfully negotiating the enrolment of hundreds of refugees in the National Health Insurance Fund (NHIF)[132]. This enabled their access to affordable healthcare at USD 2 per month[133], as opposed to the otherwise more resource-intensive parallel provision of services outside the national system.

The two-year negotiation and advocacy process leading to this outcome, reconstructed from publicly available sources[134], began with RefugePoint expanding healthcare services to dispersed urban refugee communities. This required referral partnerships with public health facilities and collaboration with local authorities, which strengthened the organisation's legitimacy among key stakeholders, including the Ministry of Health (MoH). MoH engagement enabled the accredited training of refugee Community Health Workers (CHWs). These successes encouraged the CSO to approach the NHIF which – as it established – was seeking increased client enrolment. In parallel, reviewing Kenya's National Health Insurance legislation refugees' legal entitlement to insurance had been confirmed. Leveraging this conducive context, RefugePoint worked with mid-level bureaucrats to facilitate the enrolment paperwork for hundreds of refugees, ultimately securing their registration with the NHIF. By keeping the process at the mid-bureaucratic level and avoiding public confrontation, the organisation minimised the risk of political backlash.

4.1   Negotiation objectives

Negotiation objectives define "what you want as a result of the negotiation"[135] which derives from the negotiator's interpretation of her mandate[136] to represent a humanitarian organisation. They are communicated through positions – "statements of what a party would like to achieve through negotiation"[137] and demarcated with bottom lines, i.e. "the worst acceptable outcome for you if you fail to achieve your position[138]. A solid understanding of the grounding of one's objectives enables to " explain (…) [one's] position in a negotiation through the various angles at any point of the negotiation."[139]

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132   RefugePoint (n.d.).

133   Ibid.

134   Jacobsen and Alvarado (Eds.). (2025); Kihato and Landau (2016); Landau et al. (2016); RefugePoint (n.d.).

135   Mancini-Grifolli and Picot (2004), p. 43.

136   CCHN (2019), p. 65.

137   Mancini-Grifolli and Picot (2004), p. 34.

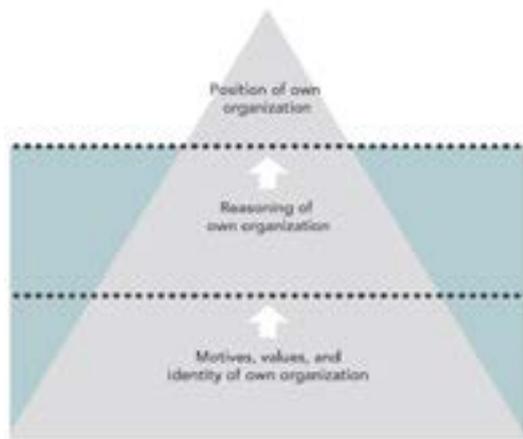138   Ibid.

139   CCHN (2019), p. 223.

Figure 1. Pathway for the definition of negotiation objectives presented as a negotiation iceberg – source: CCHN (2019), p. 221.

Reference literature draws a pathway for the definition of negotiation objectives visualized as a negotiation iceberg[140] (figure 1). Its foundation consists of the inner principles, motives, and values that, from the perspective of the humanitarian organisation, legitimize and mandate its engagement in the particular context. They include the humanitarian principles[141] such as humanity, neutrality or impartiality, the relevant international law, as well as the organisation's mission or expertise. In the context of refugee protection, the bottom layer will include, beyond the "humanitarian mandate"[142], the common norms protecting people in forced displacement enshrined in global[143], regional[144] or national protection frameworks, human rights[145], as well as other values inherent to the organisation's mission.

From the identity values the organisation's way of working, the "tactical reasoning"[146], is derived, i.e. its professional approaches and tools utilised in pursuit of its mission. These are found, for example, in the humanitarian sector's quality commitments, such as the SPHERE Standards[147] and Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations (NGOs) in Disaster Relief[148].

Finally, the identity of the organisation and tactical reasoning surface with its offer of service in the given context, i.e. its position in negotiation orientated around humanitarian access, assistance and protection. A variation prepared for a global objective definition of refugee protection is visualised in figure 2.

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140   Ibid., p. 220-223.

141   See: McHugh and Bessler (2006), p. 26f.

142   United Nations General Assembly (1950), ANNEX, pt. 2.

143   United Nations (1951).

144   E.g. Organisation of African Unity (1969); Colloquium on the International Protection of Refugees in Central America, Mexico and Panama (1984).

145   E.g. United Nations General Assembly (1948); United Nations General Assembly (1989).

146   CCHN (2019).

147   Sphere Association (2018).

148   International Federation of Red Cross and Red Crescent Societies and International Committee of the Red Cross (1994).

Figure 2. Proposed negotiation iceberg depicting the pathway to the overall objective of refugee protection.

Taking a practical example, figure 3 presents how the pathway for objective-finding could look for the test scenario describing RefugePoint's successful negotiation of the bureaucratic inclusion of urban refugees in Nairobi into the National Health Insurance[149]. For a transparent overview, the global values and tactical methods of the refugee protection sector are removed and a more detailed focus of this specific agency is taken.
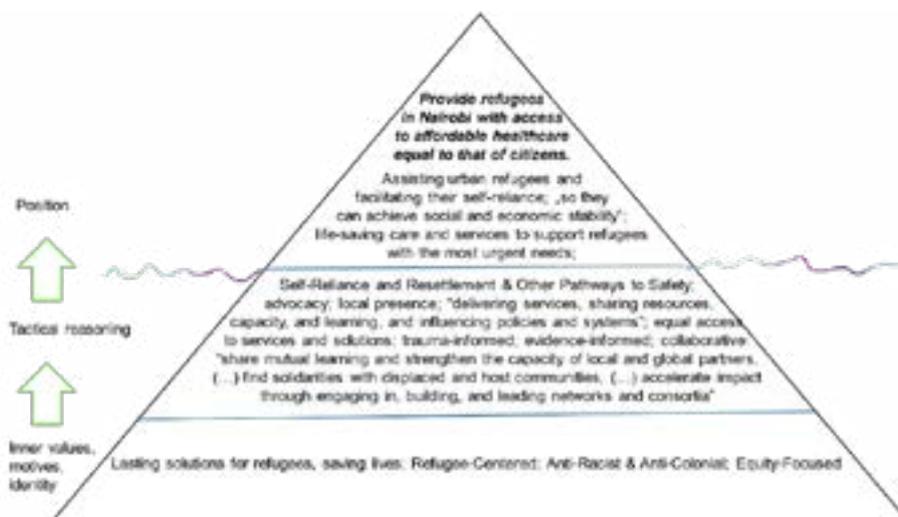

Figure 3. Negotiation iceberg of the negotiating organisation brainstormed for a case study from reference literature. Sources: Kihato and Landau (2016); Landau et al. (2016); RefugePoint (n.d.)

A brainstormed pathway for identifying the negotiation objective could begin with the organisation's commitment to refugee protection through lasting, refugee-centred solutions valuing refugees' equal position in the host environment. That underpins its operational methods orientated on building self-reliance, pursuing refugees' equal access to services and solutions. Considering the health focus of this case, the starting position and objective in anticipated negotiation with relevant decision-makers in Nairobi has been brainstormed to "provide refugees in Nairobi with access to affordable healthcare equal to that of citizens."

4.2   Counterpart

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149   Kihato and Landau (2016); Landau et al. (2016).

The negotiation counterpart is identified as "the person most likely to deliver what they [humanitarian negotiators] want."[150] That blunt description involves a more complex effort of assessing the potential counterpart's receptiveness to humanitarian values, implementation power and personal rapport[151]. Mancini-Grifolli and Picot suggest veting counterpart-candidates by the first two values by means of a mapping exercise[152], prioritizing those with the highest scores.

Applying these considerations in the context examined in this thesis reveals a low receptiveness to humanitarian principles of refugee protection, given the limited political priority afforded to POC in local host environments.[153] Literature speaks of "little moral commitment"[154] on the part of the local authorities alongside their arguments of "little direct responsibility."[155] In any circumstance, a good, contextual assessment leveraging local knowledge and contacts can bring the interested organisation to a 'receptive' or at least – flexible counterpart. That assessment might involve the option of tapping into correlated values like institutional commitment to inclusion and social progression[156] or political make-up rhetoric[157] of "humanitarian responsibility."[158] Finally, "institutions that at the very least do not benefit from neglecting POC concerns"[159] could be considered.

"Implementation power"[160] concerns the candidate-counterpart's factual ability to help realize the agreement pursued by the organisation. That includes persons with "power to do something"[161] due to their capacities, persons with "power over other people"[162] based on the institutional hierarchy, authority and autonomy[163] or with "power through other people"[164], accessing relevant influential networks. Furthermore, a person might be a good negotiation counterpart for her close relationship to the key decisionmaker[165].

What power can be expected from local authority representatives and bureaucrats to help pursue refugee protection objectives? In the aspect of capacity, local authorities have often limited resources[166], relevant know-how[167], dedicated budget[168] or clear mandate.[169] However, they do hold, at a minimum, de facto responsibilities[170] for sectoral responses and public services affecting and needed by POC, including "health, housing and economic development."[171] This discretionary power can be exercised to the advantage of POC by local officials including mayors using their authority of local hierarchy. It can also lie in the hands of local bureaucrats, as the decisive implementer of their superiors, "who make decisions on what needs to be done, when and how."[172]

The test case speaks of a mid-level bureaucrat who was identified as de-facto decision-maker in terms of enrolment of new clients in health insurance[173]. The scenario further indicates no institutional objections against this move, given no mentions of discriminatory practices or lacking "receptiveness to humanitarian

150   Mancini-Grifolli and Picot (2004), p. 51.

151   Ibid., p. 51-54.

152   Ibid., p. 56-58.

153   Kihato and Landau (2016), p. 416; Landau et al. (2016), p. 12.

154   Landau et al. (2016), p. 13.

155   Ibid.

156   See: Ibid. (2016), p. 10.

157   Balcioglu (2024).

158   Polat and Lowndes (2021), p. 59.

159   Toward an Intervention Matrix. In: Landau et al. (2016), p. 18.

160   Mancini-Grifolli and Picot (2004), p. 51-54.

161   Mancini-Grifolli and Picot (2004), p. 52.

162   Ibid.

163   See: McHugh and Bessler (2006), p. 18.

164   Mancini-Grifolli and Picot (2004), p. 52.

165   Ibid.

166   Kihato and Landau (2016), p. 409.

167   Landau et al. (2016), p. 11; Balcioglu (2024), p. 2.

168   Polat and Lowndes (2021), p. 59.

169   Balcioglu (2024); Kihato and Landau (2016).

170   Kihato and Landau (2016), p. 411.

171   Ibid.

172   Balcioglu (2024), p. 1.

173   Landau et al. (2016), p. 10.

values". For the purpose of further discussion on this case, the initially anticipated objective requesting to "provide refugees in Nairobi with access to affordable healthcare equal to that of citizens" is now correspondingly changed to "include the refugees in Nairobi into the National Health Insurance".

4.3   Context

Humanitarian negotiation involves the communication of "a mix of divergent narratives about reality"[174] of the negotiation parties in terms of the situation, status and needs of the affected population[175]. To navigate any differences from the beginning of and throughout the negotiation, a solid understanding of the negotiation context is therefore required, including the anticipated perspective of the counterpart[176] obtained through quality information relevant in their perception[177].

Adapting sample questions from humanitarian negotiation guidance[178], the relevant social, cultural and political aspects of the context, alongside the resulting protection issues are part of context analysis in negotiations concerning local protection. Exploring stakeholders who contribute to refugee protection conditions in both negative and positive ways presents another point. Also the potential negotiation processes of other actors, including their challenges and dilemmas benefit context understanding. In a more focused perspective, Polzer suggests examining the relevant sources of power and resources of local interest, and how these are pursued by POC themselves[179]. Finally, examining local institutional and political structures is necessary, according to Landau et al., including capacities, inconsistencies, dependencies and gaps that shape local refugee protection outcomes. They introduce an "Intervention Matrix"[180] to guide this thread of analysis, providing a set of considerations that contribute to the development of the "local literacy"[181] required to engage effectively in local refugee protection.

In the test scenario, a negotiation context analysis could include such details as the poor implementation of legal rights granted refugees in Kenya[182] at the time the case was described, including the still emerging role of counties' specific protection responsibilities[183]. Despite applicable protection frameworks[184] formally granting freedom of movement, Kenya was following an encampment policy with a few "administrative exceptions" allowing for urban settlement[185], yet still not recognized by some local public institutions[186]. On the political front, public debates over refugee issues were expected to negatively impact any protection initiatives[187] - one of reasons being competitive resource struggles for and of the local population[188]. It appears that refugees would struggle accessing some key public services such as healthcare, for reasons such as its high costs without public health insurance to which they had the formal, if not implemented in practice, right[189].

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174   CCHN (2019), p. 65.

175   Ibid.

176   Ibid., p. 64.

177   See: Ibid., p. 51.

178   See: Ibid., p. 50.

179   See: Polzer, p. 97.

180   Toward an Intervention Matrix. In: Landau et al. (2016), p. 17-19.

181   Kihato and Landau (2016), p. 416; Landau et al. (2016), p. 13.

182   Landau et al. (2016), p. 11.

183   Ibid., p. 9.

184   E.g. Organisation of African Unity (1969), United Nations (1951).

185   Pavanello et al. (2010).

186   Ibid.

187   See: Landau et al. (2016), p. 10.

188   Ibid., p. 3.

189   Ibid., p. 10.

4.4   Negotiation starting point

Humanitarian negotiation guidance proposes an interesting tool to organize the information obtained from the context analysis and identify a thread of situation perceptions shared by both parties "in order to start the conversation about finding pragmatic solutions to the humanitarian needs of the population."[190] The "Island of Agreement"[191] is a sorting exercise of relevant facts and norms. Facts are understood here as observable, empirically experienced, or verifiable phenomena – for example, the number of recognized refugees in Nairobi, their health status, or their access to healthcare services (all of which can be verified through assessment or data collection).

Norms are defined as "ways of behaving that are considered normal in a particular culture or society, or a desired behaviour that a group of people believes in."[192] Examples include shared understandings or expectations about how refugees should be treated — for instance, the belief that displaced persons deserve humanitarian assistance, or that host communities and institutions have a responsibility to support them.

In this process, facts and norms collected from the perspective of the organisation and any statements of the counterpart are sorted by their convergence and divergence into: contested facts, agreed facts, convergent norms, divergent norms. The actual "island of agreement" consists of overlaps in the parties' perceptions - agreed facts and convergent norms – which serve as the starting point for negotiation engagement with the counterpart. An example of application on the test case is attempted below:

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190   CCHN (2019), p. 65.

191   Ibid., p. 64-74.

192   See: ibid.

Contested Facts	Agreed Facts	Convergent Norms	Divergent Norms
Refugees reside *legally* within Nairobi County's jurisdiction	Refugees live in Nairobi, both in recognized and unrecognized situations	The protection mandate is with the dedicated institution and I/NGOs	Local administration has no responsibility to define refugee policies
Refugees are here temporarily, and therefore not in need of inclusion in national systems	There is no clear pathway to affordable healthcare for refugees in Nairobi	Healthcare is a basic human need	Refugees should not be included in the local systems
Refugees are legally eligible for NHIF enrollment	Refugees access healthcare predominantly in emergency cases due to high costs of regular healthcare services	Legally eligible individuals should be enabled to access their right	Everyone, regardless of status, deserves equal treatment.
Refugees will strain the health system's capacity or budget	The NHIF scheme is the main channel for accessing affordable healthcare.	If refugees already use public services, better to organize it properly	
	Refugees formally have a right to healthcare under national law and international commitments		

Table 1. The Island of Agreement of the test case.

This hypothetical "Island of Agreement" provides an overview of facts and norms (marked grey space) that can inform the narrative in the first negotiation encounter of the test case. The organisation could speak of a number of refugees, including those with recognized status, living in Nairobi, whose access to healthcare - a basic human need - is impeded due to unclear pathways to affordable healthcare and insurance. While refugees are formally entitled to healthcare under national law and international commitments, in practice they often resort to healthcare primarily in emergency situations due to high costs. The National Health Insurance Fund (NHIF) scheme constitutes the main channel for accessing affordable healthcare. As a mandated organisation concerned with the well-being of those in need, the organisation is seeking the engagement and support of the relevant bureaucrat to enable eligible refugees to enrol in the scheme.

Finally, two possible negotiation pathways can be identified through this framework: a factual negotiation and a normative negotiation. A factual negotiation[193] emerging from prevalent conflict of claimed facts, focuses on bridging the negotiating parties' factual understanding of the situation. At the same time, it builds on the convergence of norms which provide the substance for a negotiation kick-off. Where conditions allow, contested facts can then be clarified through assessments and evidence (for example, reviewing the legal framework to determine refugees' eligibility for public health insurance).

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193   CCHN (2019), p. 69f.

A normative negotiation[194] evolves from a conflict of norms. To reach an agreement, the negotiating parties will need to find a common language bridging their understanding of the applicable norms[195]. The negotiation's start evolves around the agreed facts while conflicting norms are addressed once the relationship is established and appropriate tactics identified.

4.5   Counterpart's interests

In the "Counterpart" section the "Receptiveness to humanitarian values" was mentioned as one of the qualities describing a good negotiation counterpart, yet often not applied due to competing priorities of local authorities. This section delves into the issue of counterpart's interests which – in the end – guide their decision-making and action.

Humanitarian negotiation guidance unsurprisingly speaks of "a multiplicity of interests" underlying counterpart's decisions and collaboration, "some personal and some shaped by the organisations and social groups they belong to or the wider groups that surround and influence them."[196] Whereas these interests cannot be read out as simply as the pathways for identifying one's own objectives (see: "Negotiation objectives" section), with effort of context analysis (see: "Context" section), consultation in networks and brainstorming, some useful assumptions about the reasoning and the underlying values can be derived from the counterpart's position[197]. One way of exploring counterpart's interests is by probing[198] offers around their position which gradually reveals their focus in the negotiated subject alongside their bottom lines. Another way, applied on sample scenarios below, follows the same logic as identifying the humanitarian organisation's own objective, but in reverse order, "diving in" from the top of the iceberg, the counterpart's manifested position. It is visualized in the negotiation iceberg of the counterpart[199] (figure 4).
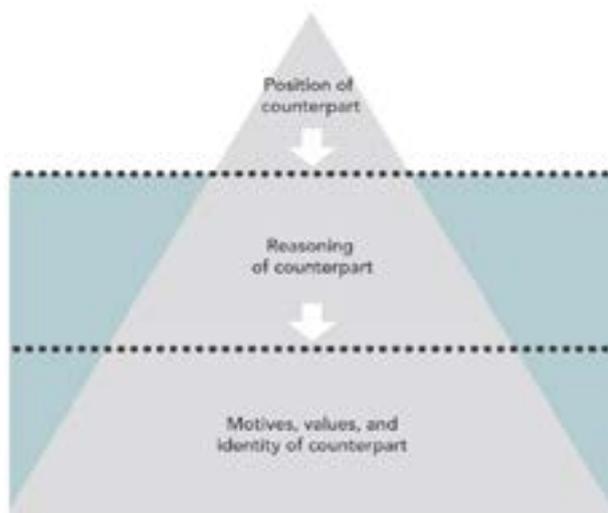

Figure 4. Pathway for analysing the position of the counterpart –
source: CCHN (2019), p. 202.

The first question to ask in this exercise is: "WHAT is the position of the counterpart (explicit or implicit) on the particular issue(s)?"[200] Put in the context of interest, example positions of local representatives could look as follows:

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194   Ibid., p. 70.

195   See: ibid., p. 81.

196   Mancini-Grifolli and Picot (2004), p. 62.

197   CCHN (2019); Mancini-Grifolli and Picot (2004), p. 61.

198   See: Mancini-Grifolli and Picot (2004), p. 61.

199   CCHN (2019), p. 199-205.

200   Ibid., p. 199.

Thread 1: "We are not going to provide any services to refugees" (case: urban refugees in Johannesburg[201]; case: Syrian refugees in Zahle, Lebanon[202])

Thread 2: "We are happy to facilitate one-off distributions to refugees" (case: Syrian refugees in Turkey[203]) (94)

Thread 3: "We can collaborate in an inclusive protection programme" (case: Syrian refugees in Turkey[204])

In the next step, the tactical reasoning of the counterpart is explored: "HOW did the counterpart get to that position (i.e., what is the logic/reasoning explaining the position)?"[205]. Here a diversity of individual, institutional or stakeholder-related tactics can be brainstormed, shedding light on the origin of the position. To continue on the above examples the following tactics have been discerned from reference literature:

Thread 1: The counterpart might be following the political and constituency preference of excluding refugees[206] possibly for fear of resource competition[207] or due to inherently discriminating attitudes. A parallel line of reasoning may relate to perceived capacity constraints - material or technical - to engage[208] as well as from an intention to make the challenges of the local response visible to the public[209], in order to indirectly call for external support[210]. Beyond challenged capacities, the counterpart might be just busy and uninterested in taking more work, including complying with I/NGOs standards and extra monitoring, and rationalize that with "little responsibility"[211] against the mandate of institutions nominated to manage refugees in the country.

Thread 2: The counterpart recognizes the need to manage refugee assistance to "decrease the 'illegality' in the district"[212], otherwise it might face accusations of governance incompetence from the constituency which damages the image of the represented party[213]. Refugees' needs are less of concern than "making sure that these services do not attract more refugees"[214]. Distributive assistance helps in this context to "exert control over the refugee population and render them invisible to the host population."[215] It also requires minimum effort for enough proof of engagement required by the party[216].

Thread 3: The counterpart plans and provides services based on needs explored with evidence-based approaches. Lasting quality in delivered programmes is desired and facilitated through the necessary know-how and partnerships, which might "make their projects less contingent to political turmoil."[217] Due to lacking capacities (material, technical), the counterpart explores capacity building, fundraising and partnership opportunities given, e.g. through collaboration with NGOs[218].

Going deeper into the "iceberg", the underlying motives, values and identity are explored, guided by the question:

> "WHY does the counterpart take such a position (i.e., what are his/ her values, motives, or identity issues related to the object of the negotiation or process)? What are the social norms at stake? What emotions are raised by such issues, if any (e.g., hope, anger, fear, frustration, etc.)? Are the deep-

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201   Landau et al. (2016), p. 13.
202   Betts et al. (2017), p. 13.
203   Balcioglu (2024).
204   Ibid.
205   Ibid., p. 200.
206   Landau et al. (2016), p. 13.
207   Polzer (2009), p. 96.
208   Ibid.
209   Polat and Lowndes (2021), p. 65.
210   Betts et al. (2017), p. 18.
211   Ibid.
212   Balcioglu (2024), p. 11.
213   Ibid.
214   Ibid.
215   Ibid., p. 15.
216   Ibid., p. 10.
217   Ibid., p. 13f.
218   Ibid., p. 14.

rooted needs of the counterpart covered (e.g., security, recognition, sovereignty, etc.)?"[219]

Brainstormed answer-ideas to above cases present as follows:

Thread 1: national/ethnic/class identity; stability; hierarchy (of politics and superior orders); recognition; power; budgetary priorities; institutional efficiency.

Thread 2: recognition, reputation, job security, promotion; monetary gain; identity fears – fear of external actors coming in to take over service delivery competitive to local public services which again can impact the reputation of the municipality; individual and party's wealth.

Thread 3: intrinsic motivations; professional conduct[220]; good governance; rule-bound governance; performance quality; well-being and safety of residents; wealth of the municipality; sustainability.

These examples of reasoning, brainstormed by the author based on context literature, demonstrate the mechanism of position-building and the diversity of interests and values underpinning counterpart's statements in negotiations – which do not include concerns of refugees or compliance with the international standards. The same was found to be confirmed in the expert interview who observed in her experience how local thinking focuses on categories "voters and non-voters, or citizens and non-citizens"[221], but not on refugees or asylum seekers.

Thinking of the test scenario, a negotiation iceberg for the counterpart-bureaucrat could present as below:

Figure 5. Analysing the position of the bureaucrat-counterpart in RefugePoint's negotiation

The initial reluctance to the organisation's initiative could come from fear of engaging in controversial issues and preference to follow superior's orders rather than an initiative of an entity from outside the bureaucratic system. However, there were other values and reasoning that made the person compromise in the end which shall be explored later.

4.6   Compatibility

Once negotiation objectives have been defined and context-informed assumptions about the counterpart's interests developed, assessing the compatibility of both parties' positions and interests helps identify points of alignment on the issue under negotiation.

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219   CCHN (2019), p. 200.

220   Balcioglu (2024).

221   Key informant interview (2025).

Compatibility describes "the distance between the interests of the two parties to the negotiation."[222] The closer their compatibility, the easier their substantive discussion should evolve[223]. Whereas the negotiating parties' positions may not match each other at all, the negotiation can still progress if addressing compatible interests and values inherent to these positions. For this reason, humanitarian negotiation guidance recommends that negotiators "concentrate on interests, rather than positions, and to develop as many options as possible for agreements that would satisfy both parties until a wise and effective solution can be identified that requires neither to compromise."[224] In short, the effort of exploring the interests and compatibility pays off with increased options that again increase the chance of a successful transaction[225], including its quality, durability[226] and co-ownership[227].

An exercise focused on measuring compatibility draws from earlier discussed steps and aspects in humanitarian negotiation and involves at this stage the identification of what CCHN termed as Common Shared Space[228] (CSS) of the negotiation. Juxtaposing one's positions and its foundational layers with corresponding positions of the counterpart, negotiating organisation looks for related interests and values – potential elements of pursued agreement. At times this might require translating one's interests and values into a "palatable vocabulary"[229] to the counterpart. An example from context literature concern the "unpalatable" resonating of refugee-rights-based claims in Johannesburg. Instead, speaking to local authorities' receptiveness to concerns of "general economic and physical vulnerability"[230] has been proposed as an alternative. This approach accommodates both the humanitarian protection concerns and the local policy agenda. In the following example, a possible CSS of the test case is drafted, using another tool from humanitarian negotiation guidance[231].

Figure 6. Brainstorming the Common Shared Space of the test case.

RefugePoint's finding of refugees' legal eligibility to public health insurance is in this scenario not necessarily contested by the bureaucrat who by professional identity recognizes the national legal order. Furthermore, the individual may subscribe to the principle of the universal right to health. – another angle modified in the CSS as "saving lives through facilitating access to affordable healthcare". At the tactical reasoning level, the bureaucrat might claim no responsibility for refugee protection issues, yet, admit de-facto power by the recognized law and the emerging administrative discretion. Without clear legal or institutional guidance, applying an enrolment procedure equal to that of citizens could be considered. To manage risks stemming from the bureaucrat's supervisor, enrolment could be processed without the usual visibility required in projects funded by humanitarian donors. Another risk-mitigation strategy is to pilot the negotiated solution

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222 Mancini-Grifolli and Picot (2004), p. 81.
223 See: Compatibility and Leverage Matrix in: Mancini-Grifolli and Picot (2004), p. 91.
224 Mancini-Grifolli and Picot (2004), p. 65.
225 CCHN (2019), p. 231.
226 Ibid., p. 234.
227 Ibid., p. 231.
228 Ibid., p. 230.
229 Ibid., p. 237.
230 Landau et al. (2016), p. 13.
231 CCHN (2019), p. 230-241.

with a limited number of the most vulnerable clients.

4.7   Leverage

Leverage describes "the power you have to influence the other party."[232] There are different sources of leverage[233] in humanitarian negotiation. Their final selection will depend on what is known about the counterpart and the negotiation context.

Quiet advocacy involves efforts of persuading the other party to adhere to the applicable laws which – in the discussed case – are international refugee protection norms and their local transposition. An example could include "quietly insisting that government officials respect migrants' rights or challenging when staff or volunteers are penalised for providing assistance."[234]

Loud advocacy, i.e. denunciation, follows the same aim, yet with more aggressive means, leveraging the pressure of public media and public reports of identified norm violations. Its value in discussed local protection context appears problematic and counterproductive as "remonstrating officials for falling short of their legal obligations to POC will accomplish little where officials and citizens expect little in this regard."[235]

Material assistance, i.e. substitution, and support through professional expertise involve offering corresponding resources with a projected impact on the situation, whether as incentives or threats (i.e. "if we don't bring this in, this will likely happen"). Considering the frequent material and capacity needs of local authorities in this context, this represents a potentially impactful lever. Examples include direct assistance such as "monetary funds from international agencies for their expenses arising from capacity building and service provision for refugees"[236] or "[s]upport for existing mechanisms"[237] like "additional resources to health providers to expand services(…)"[238], or sectoral expertise for infrastructure improvement[239].

Leveraging the network of influence constitutes a powerful method of improving an organisation's power position vis-à-vis the counterpart. It emerges from recognising that other power and interest dynamics operate alongside, and on equal footing with the efforts of refugee protection actors. Thus, this lever involves stakeholder mapping and planning appropriate engagement strategies with the most promising contacts[240], i.e. those who are accessible and likely to influence the counterpart's perception of the negotiated issue. The desired mechanism of this effort is to make the counterpart aware of positive or transformative dynamics amongst respected stakeholders concerning the negotiated issue or the negotiating organisation.

CCHN developed a visual tool[241] which helps to map stakeholders and project engagement options. These actors are placed by their proximity relative to the counterpart's identity and support (or lack thereof) of the issue. Then, corresponding engagement strategies are planned, such as alliance, coalition, collaboration, or mitigation. Below, a generic stakeholder map is drafted for the negotiation context of local level protection conditions, using context literature. Stakeholder engagement options are brainstormed later on the test case.

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232   Mancini-Grifolli and Picot (2004), p. 69.

233   Ibid., p. 70f.

234   IFRC (2024).

235   Kihato and Landau (2016), p. 417.

236   Balcioglu (2024), p. 14.

237   Kihato and Landau (2016), p. 418; Landau et al. (2016), p. 15.

238   Ibid.

239   See: Toward an Intervention Matrix. In: Landau et al. (2016), p. 17.

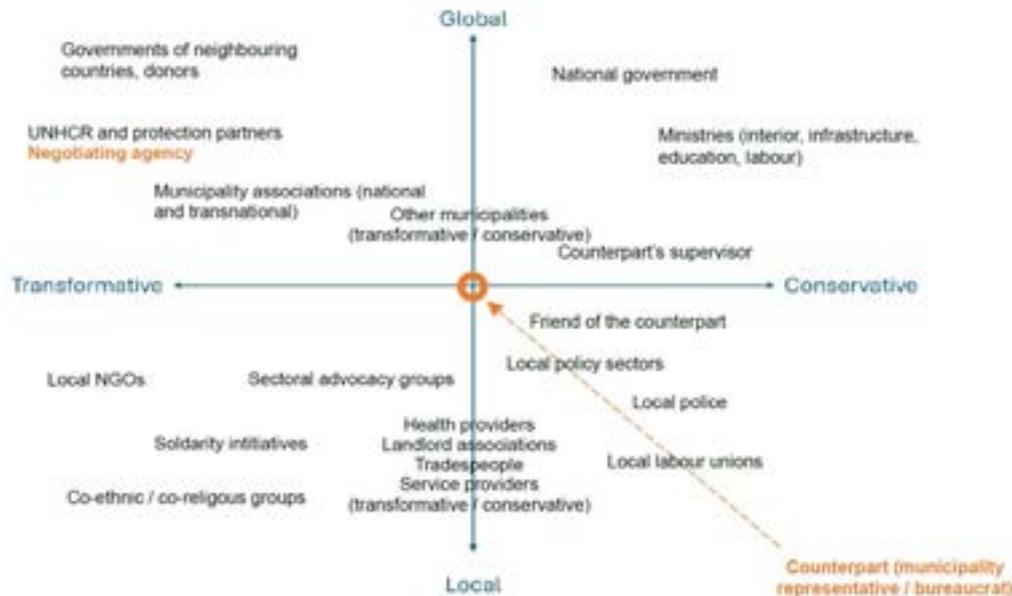240   See: ibid., p. 252-257.

241   Ibid., p. 260-272.

Figure 7. Generic stakeholder map drafted for the negotiation context of local level protection conditions. Sources: tool: CCHN (2019); content: Balcioglu (2024); Kihato and Landau (2016); Landau et al. (2016); Polzer (2009); Sabchev (2020).

The leverage options list further includes cultivating the credibility[242] of the negotiator, which can be maintained in a dedicated effort of "fostering legitimacy and building trust."[243] By means of a careful review and action on the sources of legitimacy[244], such as personal features, contact networks, or competence on a specific topic, the perception of the negotiator in the eyes of the counterpart can be shaped. This includes mobilising a negotiation support team of the required skillset and profiles[245].

Finally, timing can work as an alternative form of leverage[246], e.g. if the counterpart is under time pressure to arrange something. That could be, in the focus context, municipalities' pressure to deal with a rapid influx of forcibly displaced people without their actual mandate, know-how or capacity[247].

Closing this section, the following ideas for leverage options in the test case have been brainstormed or derived from the case:Quiet advocacy: working on legal compliance with the counterpart bureaucrat and possibly their supervisor.

- Material assistance / expertise: subsidizing insurance contribution; providing a proof and narrative for the legal eligibility of refugees to public health insurance; offering to prepare the paperwork for the enrolment process.
- Engagement with network of influence: "coalition"[248] with the bureaucrat's supervisor – seeking contact at or inviting to events or conferences; reaching the person through well-established contacts to the local health department.
- Timing: enrolling new clients ahead of the bureaucrat's periodic performance evaluation.
- Credibility: transparent and regular communication; demonstration of reliable expertise in law, health systems, or governance; reliability in terms of meeting practicalities such as timeliness or preparedness.

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242   Mancini-Grifolli and Picot (2006), p. 74f.
243   See: CCHN (2019), p. 90-100.
244   Ibid., p. 93.
245   Ibid., p. 104; Mancini-Grifolli and Picot (2006), p. 90.
246   Mancini-Grifolli and Picot (2006), p. 76.
247   See: Balcioglu (2024); Sabchev (2020).
248   CCHN (2019), p. 269.

4.8   Negotiation approach

This section draws on key guidance from humanitarian negotiation practice to introduce the discussion on managing local interests and discretion in refugee protection policy decisions, which continues throughout this chapter. In the earlier sections, the analytical aspects and processes were explored: the negotiation context, the objectives, positions and interests of the negotiation parties, potential compatibility, and the available levers. These processes serve the understanding of HOW to effectively engage with the counterpart which now moves into focus.

Reference sources provide two tools[249] for identifying the suitable negotiation approach, though approaching further planning from a slightly different perspective. Given space constraints, this paper focuses on CCHN's typology of humanitarian negotiation[250], as it aligns more closely with the analytical architecture of the study.

The typology of humanitarian negotiation includes three types of negotiation which focus "(…) on the sharing of values, on building consensus on methods, or agreeing on the technical arrangements entailed in a humanitarian operation"[251], correspondingly: political, professional, and technical negotiation.

The first two – political and professional – refer to norms and standards and belong under the thread on normative negotiation (see: "Context" section). They concern values depicted earlier as underwater layers of negotiation icebergs (see: "Negotiation objectives", "Counterpart interests" and "Compatibility" sections) – challenges around the identity, mission, beliefs (political negotiation) or differences in the perception of the methods and operational standards of the organisation (professional negotiation). Technical-level negotiations correspond to factual negotiations or – what is tangible and seen on the top of the negotiation iceberg. This deals with "the logistical and practical aspects of an operation."[252]

The sense of this typology lies in the different range of arguments and risks per negotiation type. It is much easier to be able to talk to a bureaucrat about how many recognized urban refugees could be included into the pilot sample to test the harmless effect of enrolling them to the national healthcare insurance (technical negotiation) than to debate about the organisation's competence to approach the local representation of the National Healthcare Insurance Fund (political negotiation). The consequences of drowning in arguments at either level are different.

That is why it appears beneficial to the organisation's efforts to be able to name the type and risk of the ongoing interaction, and to consciously work to "depoliticize"[253] it anytime the metaphorical drowning begins. RefugePoint's move to advance its negotiation objective with the reluctant bureaucrat by bringing in performance targets might be viewed as depoliticization of the discussion. The same could be said in the meta-perspective of the possible response formats about the overall idea to approach a technical bureaucrat as a de-facto decision-maker against otherwise politically sensitive rights claims to a higher instance of governance.

4.9   Scenario options

Scenarios are, in the context of humanitarian negotiation, variations or options in-between the interests of both negotiation parties brainstormed by the negotiation team (or together with the counterpart, if the relationship allows). They present "all of the different possibilities that might satisfy your own interests and those of your counterpart"[254], demarcated with bottom and red lines on both sides.

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249   See: CCHN (2019), p. 111-123; and: Mancini-Grifolli and Picot (2004), p. 91.

250   CCHN (2019), p. 111-123.

251   Ibid., p. 111.

252   Ibid., p. 121.

253   Ibid., p. 124-127.

254   Mancini-Grifolli and Picot (2004), p. 81.

Using earlier referenced tools, scenario planning can be visualized as a continuum of options between the negotiation iceberg of the organisation and that of the negotiation counterpart. On both ends the ideal outcomes of the negotiating party are located, together with their underlying interests, motives and values. These interact alongside the continuum, projecting more or less benefit to either party. The theory assumes in its middle the "shared benefit of the negotiation"[255], i.e. acceptable scenarios of relative benefit to both parties, including the maximum shared benefit that "resides at the point where both parties have maximized their mutual interests in the issues on the negotiation table."[256]

Context literature seems to discuss these types of scenarios, albeit without putting them in a negotiation structure or a continuum between interests of actors involved. From a practical perspective however, it appears beneficial to consider them in this approach to, for example, better understand potential challenges to their implementation, visualize consequences of a compromise or brainstorm adjustment options.

One scenario-planning technique proposed by Mancini-Grifolli and Picot is to "look through the eyes of others" – that is, to consider how another actor or expert might pursue the same objective in a way that is acceptable to the counterpart. RefugePoint's strategy of pursuing refugees' access to affordable healthcare by supporting their individual enrolment in national health insurance illustrates such an adjustment. This presents an alternative solution that avoids the state's potential expectation that humanitarian actors provide parallel health services for refugees.

Some other hypothetical scenarios could be named in this context as well, including "bringing strategies for objectives of improved health care, housing or other services into line with Kenya's market-based ethos"[257] to overcome the reluctance of the system against refugee protection emphasis in assistance programs. Another option proposed with regards to budget scarcity arguments involves mapping out resources available in locally managed sectors and planning to act through these e.g. "working with officials responsible for disaster management can unlock funding for refugee-related initiatives that would otherwise remain untouched."[258] From the perspective of humanitarian negotiation practice, applying tools developed for life-saving conflict negotiations to local refugee protection may appear overstated. However, the underlying logic of scenario planning seems to fit the framing conditions of such settings and should be therefore considered in efforts to improve local protection

Continuing on such examples, bureaucratic incorporation[259] or public invisibility of assistance - including the removal of logos or the use of secluded distribution locations[260] - can be interpreted as scenarios proposing to "tone down the agreement."[261] This term describes the possible compromises that might bring the organisation closer to the agreement. Part of that includes changing the tone of negotiation by delegating technicians as negotiation representatives.

Furthermore, examples for "alter[ing] the scope of the agreement (e.g. consider[ing] a pilot which can serve as a successful example to the counterpart)" are found in cases discussing potential pathways for improving the local protection conditions through local authorities. That includes the option of zooming out the protection focus "to improve the quality of POC-relevant services without singling out or identifying specific POC or POC communities"[262] in contexts of common hostility against POC and specialized protection interventions. In the other direction, proposed response can be reduced to a pilot intervention: in the Syrian refugee response in Turkey a local NGO managed to onboard a number of municipalities to refugee assistance programs despite prevalent scepticism about working with non-governmental organisations by starting "with small pilot projects with a few municipalities and built trust over time. Some of these small projects later turned into larger scale partnerships"[263], while municipalities that initially refused partnership offers expressed their interest in collaboration.[264]

255　CCHN (2019), p. 278-288.

256　CCHN (2019), p. 282.

257　See: Kihato and Landau (2016), p. 417.

258　Ibid.

259　Kihato and Landau (2016); Landau et al. (2016).

260　See: Balcioglu (2024), p. 12.

261　Mancini-Grifolli and Picot (2004), p. 82.

262　Toward an Intervention Matrix. In: Landau et al. (2016), p. 19.

263　Balcioglu (2024), p. 13.

264　See: Ibid.

4.10   Tactics

Whether starting off or seeking to move from one point to another in a negotiation, tactics serves the negotiating parties' efforts to advance towards an agreement. Drawing on inputs related to the negotiation objective, the counterparts' interests and motives, projected scenarios, and available leverage[265], this step involves "specific behavioural tools or techniques that help influence the other party."[266] Depending on the identified approach and risks to the negotiation, emphasis is placed on different aspects of the negotiation, in general revolving around relationships and trust building on the one hand, and finding a common acceptable perspective on the negotiated issue on the other[267]. For instance, a negotiation of political/identity character, needs a way to build consensus on the relevant conflicting norms, or to seek to depoliticize the negotiation to levels of lower risks, and work on the relationship.

Stressing the dynamic and creative nature of negotiation tactics, Mancini-Grifolli and Picot describe how it involves "at every sign of deadlock finding ways to look at facts differently, adjusting the focus of an argument, and making novel offers."[268] As indicated earlier, negotiating the protection conditions of POC has a likelihood of a variety of deadlocks.

Refugee protection is not considered political priority, nor responsibility by local authorities, therefore refugee norms, rights, and 'deservingness' claims are likely candidates for deadlock issues. A further consideration concerns the resources required for refugee support – time, budgetary means, technical know-how, or institutional capacity. Engaging local authorities, their programmes, or their infrastructure therefore represents another potential site of negotiation and contestation. Finally, differences in individual perceptions of values, methods of operation, individual interests and motives can block the negotiation.

Humanitarian negotiation guidance and context literature provide interesting ideas on tactics that respond to such challenges. First, it appears legitimate to begin with what Landau and other researchers named amongst "ancillary principles"[269] for strategic engagement with municipalities - that "de facto protection will be negotiated outside refugee law."[270] Appeals to rights, scholars and experts argue, are effective only when directed at actors who have an interest in upholding those rights[271] – in the stakeholder field explored here, this applies primarily to refugee protection organisations[272]. This strategy reflects an access-oriented approach to humanitarian action, as opposed to a normative one that seeks to ensure legal compliance and is therefore typically riskier in the discussed context[273]. Furthermore, sequencing[274], i.e. planning discussions on easier-to-agree topics first, while building consensus and the relationship for more challenging issues to be addressed later, appears as a reasonable tactical principle applicable in any negotiation. Linkage[275] involves bundling related issues in kinds of "packages": "In a refugee situation, for instance, you may make it clear that you will only discuss future repatriation programmes with a reluctant host government."[276]

Mancini-Grifolli and Picot categorize tactics depending on the negotiation aspect one wants to impact on: substance-focused (concerning the substantive negotiation objective), relationship-focused (aimed at improving the relationship and trust), and process-focused (to advance on smaller steps around the logistical aspects of the negotiation, support relationship-building, and maintain at least this topic under discussion if everything falls apart[277]). Both humanitarian negotiation manuals that provide detailed

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265   CCHN (2019), p. 31.

266   Mancini-Grifolli and Picot (2004), p. 93.

267   Two of the three reviewed manuals discuss the negotiation tactics in detail – by CCHN and by Mancini-Grifolli and Picot. Their structuring of the negotiation processes and aspects is slightly different. For the purpose of better clarity, a wider perspective with general terms is applied.

268   Mancini-Grifolli and Picot (2004), p. 93.

269   Landau et al. (2016), p. 13.

270   Ibid.

271   Polzer (2009).

272   Polzer (2009); Key informant interview (2025).

273   Key informant interview (2025).

274   Mancini-Grifolli and Picot (2004), p. 48.

275   Ibid.

276   Ibid., p. 48.

277   Ibid., p. 93-99.

guidance[278] describe the mechanism of selected tactics that can frame some creative manoeuvres named in literature discussing local level protection.

Shifting substantive focus[279] serves mitigating tension over an issue by refocusing it from subjective to objective matters. With CCHN phrasing, it would concern the depoliticization of negotiation. An example from Mancini-Grifolli and Picot speaks about bringing in additional objective criteria that legitimise the organisation's preference of building a road accessing local population of concern against the counterpart's demand for locating this project between two towns. An analogical move is identified in the test case of this thesis: the approached bureaucrat might be resisting the initiative to enrol eligible refugees in the health insurance system, but the objective criteria of their professional performance weakens their resistance.

Reframing[280] involves the tactical translation or adaptation of values and language used to describe the issue at hand into terms that resonate with the counterpart. Earlier analytical tools – such as negotiation icebergs, compatibility and stakeholder mapping – provide inputs for identifying persuasive and context-appropriate wording. Probing with the test case, one could hypothesize one of tactics working here being speaking with norms and values relevant to the bureaucratic ones: one can imagine a situation in which the organisation shows up with a transparent list and paperwork of proposed clients eligible for the insurance under the national law. Naturalizing the presence of POC[281] appears as another tactical way of re-framing alongside its scenarios of bureaucratic inclusion through "small-scale engagement to amend by-laws, trade licenses and other regulations."[282] The perspective of local authorities' obligations towards local residents, including ensuring good governance, public order, the well-being and safety of the local population can provide relevant vocabulary for such discussion. Finding alternative norms respected by local stakeholders can furthermore serve as a way and tool[283] to increase the counterpart's readiness to advance towards protection objectives. As reiterated throughout this paper, the key is to think within what was termed as Common Shared Space and adapt one's language and arguments to terms and values resonating with the counterpart.

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278   CCHN (2019); Mancini-Grifolli and Picot (2004).

279   Mancini-Grifolli and Picot (2004), p. 93f.

280   Ibid., p. 94f.

281   Kihato and Landau (2016), p. 409.

282   Kihato and Landau (2016), p. 417; Landau et al. (2016), p. 14.

283   CCHN (2019), p. 137-151.

5.   Conclusion

This paper has examined the engagement strategies that humanitarian organisations may employ in their interactions with local authorities. The focus on local authorities is justified for two key reasons. First, they act as the final implementers of refugee protection. Second, evidence shows that they exercise considerable discretionary power over persons of concern's access to services and rights on the ground. The vision guiding the research focus was that humanitarian organisations can deliberately work and collaborate to influence these actors to exercise their discretion to the benefit of hosted POC populations.

The paper framed the interaction between humanitarian organisations and local authorities with the aspects and considerations inherent to humanitarian negotiations. The purpose of that design was to demonstrate how the structured approach of humanitarian negotiation can help understand the interaction dynamics and navigate its mechanisms towards improved protection outcomes. Thus, dedicated sections corresponding to the key elements of humanitarian negotiation guided the reader through the essential considerations: starting with defining the negotiation objective and identifying the counterpart, through understanding the context, interests and relevant leverage to arriving at scenario planning aided with corresponding tactics.

It is believed that the empirical scenario samples obtained from the secondary literature proved to successfully fit in the narrative of humanitarian negotiation, although with limitations due to the availability of only fragmented information. That included the test scenario of the organisation RefugePoint negotiating urban refugees' access to the national health insurance in Kenya which had to be extended by hypothetical brainstorming. Nevertheless, it is sufficient to argue that such negotiations can draw on the perspective of humanitarian negotiation, including its toolkit, which helps structure interactions and identify their underlying mechanisms.

This includes beginning the interaction by recognising that the parties may hold two different perceptions grounded in distinct values and interests. Instead of resorting to accusations of non-compliance with norms of little relevance to the other party, it prompts the examination of both perspectives and the convergent points between the negotiation parties. This was found in the test case, the hypothetical recognition of Nairobi refugees' limited access to healthcare due to its high costs despite their right to health. The brainstormed language of convergent values and tactical reasoning revolved around transparency, bureaucratic order, eligibility and simplicity (in processing the applications). It is believed that the same process applied in real-life scenarios can bring relevant inputs to plan the starting point to the negotiation.

Equally, understanding the leverage options helps to project the engagement with local authorities which, as it was concluded from the sources, often require extra resources and expertise to at least technically be able to offer services to POC. Simultaneously, as discussed, engaging with the wider stakeholder landscape and consciously shaping one's image in the eyes of the counterpart help create an environment conducive to constructive decision-making in the negotiation.

Finally, deliberate scenario planning and tactics tailored to the specific context and to the particular counterpart, responsive to particular vocabulary and incentives increase the likelihood of successful, potentially lasting agreements. In this discussion, the scenarios and tactics proposed by Prof. Landau and other scholars have been referenced as promising approaches that invite further exploration in the negotiation context under study.

Another hypothesis of this research assumed that by applying the structured approach of humanitarian negotiation in interaction with local authorities, humanitarian organisations can improve the quality and sustainability of their relationships with these actors. While, beyond theory, no empirical evidence could be found, the presented aspects of the negotiation process speak for this assumption.

Humanitarian negotiation is to a large extent a relational negotiation[284], one of the reasons being the typical power imbalance[285] between humanitarian organisations and their counterparts – whether they are armed actors in a conflict or local authorities in service to the government. The discussed negotiation

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284   CCHN (2019), p. 44.

285   McHugh and Bessler (2006); Mancini-Grifolli and Picot (2004).

aspects and tools reflect this focus, including thorough context and counterpart analyses, considerations of their perceptions and backgrounds in the strategic planning and approach. As indicated earlier, applying different levers tailored to the expected positive effect with the counterpart can be seen in part as measures facilitating relationship building. Material and professional assistance play a beneficial role. Managing the influence of relevant stakeholders works for a positive image of the negotiating organisation in the eyes of the counterpart and hence also the relationship. The same applies for conscious efforts of the organisation to cultivate its credibility, its legitimacy against the counterpart.

Finally, although addressed with less emphasis, this dissertation argued that collaboration accompanying negotiations between humanitarian organisations and local authorities can have a collateral capacity-building effect. Indeed, some of the sample scenarios involved local authorities' motivation to engage with humanitarian organisations for the purpose of knowledge transfer, amongst other objectives[286]. On top of that, examples of bureaucratic incorporation such as the one achieved by RefugePoint in Nairobi, or other hypothetical scenarios drawn by Landau and other scholars involve novel approaches and solutions, and thus new learning to both parties involved.

The research findings appear promising, although it must be recognized that the ability to explore empirical scenarios obtained from practitioners directly involved in refugee protection negotiations with local authorities would give stronger evidence. Such case would require less speculation and thus offer more credible data to look into the mechanisms of interactions and potential tendencies, similar to the one uncovered by Balcioglu of different motivations shaping the final format of responses and, further, the refugee integration outcomes[287].

Furthermore, it has been highlighted in this dissertation that humanitarian negotiation involves compromises at the borderline of feasibility for humanitarian principles and identity. Yet, no relevant evidence has been found in reviewed sources. Only the humanitarian negotiation expert interviewed for the purpose of this research highlighted interesting scenarios involving identity dilemma in negotiations with the local authorities. One example concerned organisations involved in basic humanitarian assistance to migrants in border areas and alongside migratory routes, facilitating the onward movement[288] pursued by the host government. Another scenario insinuated a situation in which the local authorities would leverage humanitarian assistance for their own aims which might not be the same aims as of the full community."[289] Understanding these dilemmas and how to leverage humanitarian negotiation approaches facing them would be another desired outcome obtained in this dissertation.

Throughout this research, a central question has been how local discretion can shape local conditions for refugee protection - a phenomenon considered as an important opportunity in this study. On the one hand, it is assumed that bringing both parties' interests together, finding an acceptable solution within the Common Shared Space secures the buy-in of both parties and hence the lasting effect. On the other hand, this assumption was contested in the expert interview where discussions highlighted challenges such as the exhaustion of resources available for collaboration and unexpected geopolitical events that could lead to a complete reversal in the attitude of local authority representatives. While this research would like to believe in the opportunities for long-lasting arrangements of the range comparable to the bureaucratic inclusion of Nairobi refugees, it seems it truly requires "lifting up"[290] by capable partners and "considerable up-front effort and expertise"[291] to design this type of intervention with chances for long-term survival.

286　Balcioglu (2024); Sabchev (2021).

287　See: Balcioglu (2024).

288　Key informant interview (2025).

289　Ibid.

290　Key informant interview (2025). .

291　Kihato and Landau (2016), p. 419.

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