



# CCHN Field Manual on Frontline Humanitarian Negotiation



**FRONTLINE**  
NEGOTIATIONS

CENTRE OF COMPETENCE ON  
HUMANITARIAN NEGOTIATION



# CCHN Field Manual on Frontline Humanitarian Negotiation



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Disclaimer: The material presented in the *CCHN Field Manual on Frontline Humanitarian Negotiation* is drawn from an empirical analysis of humanitarian negotiation practices. This analysis was informed by a series of informal, personal, and confidential interviews of, and exchanges with field practitioners undertaken by the Centre of Competence on Humanitarian Negotiation (CCHN). Examples of negotiation practices presented in the *CCHN Field Manual* have been decontextualized and combined to illustrate lessons learned. The views and recommendations contained in the *CCHN Field Manual* are for general information purposes only. They have not been approved or endorsed by the Strategic Partners or donors of the CCHN.

*“Out beyond ideas of wrongdoing and rightdoing,  
there is a field. I’ll meet you there.”*

**Jalāl ad-Dīn Muhammad Rūmī**  
Persian Poet, Sufi mystic. (AD 1207-1273)

## Preface

It is a pleasure and a great privilege to introduce the second version of the *CCHN Field Manual on Frontline Humanitarian Negotiation*. The *CCHN Field Manual* builds on the collective experience and perspectives of several hundred humanitarian practitioners engaged in some of the most challenging conflict environments. It offers a set of concrete tools and methods to plan and prepare negotiation processes for the purpose of assisting and protecting populations affected by armed conflicts and other forms of violence.

Through a series of in-depth interviews and informal professional exchanges with humanitarian practitioners from around the world, the CCHN has gathered a unique understanding of humanitarian negotiation practices. The negotiation model presented in the *CCHN Field Manual* is intended to assist humanitarian professionals and their team to plan and review negotiation processes in a systematic and critical manner. By sharing their reflections on current engagements, frontline humanitarian negotiators will be able to evaluate and compare their options, develop new skills, and learn from each other's experience in addressing the recurring challenges and dilemmas of humanitarian negotiation. In the second version of the *CCHN Field Manual*, the readers will notice the increasing involvement of members of the community of practice of the CCHN in both the design and articulation of the methods and tools of the CCHN. While the first version drew extensively from the confidential interviews conducted by the CCHN in the early years of its mission, the new version is being additionally shaped by the growing interest of CCHN community members in contributing to the reflection on current practices and providing support to their colleagues in the field, ensuring the relevance and accessibility of the material to many types of users from frontline humanitarian operators to mandators working with local NGOs or international agencies. Hence the *CCHN Field Manual* is connected to a series of practitioners' and facilitators'

handbooks and a user-led digital platform that support and feed discussions on practical ways to strengthen humanitarian negotiation processes across contexts.

Although the *CCHN Field Manual* presents frontline negotiation practices within a linear model, it does not aim to provide a one-size-fits-all strategy. Each negotiation is unique in terms of environment, culture, relationships and personalities. Humanitarian organizations' mandate and internal regulations also differ in terms of objectives and limitations of negotiation processes. Ultimately, the success of negotiation relies largely on the personal skills and sensitivity of each negotiator underpinning his or her ability to build the necessary trust with the counterparts in complex and challenging environments. The security and safety of humanitarian operations depend on their individual aptitude to adapt their objectives to the operational and political situation while responding to the demands and expectations of the affected populations and communities.

The *CCHN Field Manual* has been made possible thanks to the active contributions and continuous guidance of the Strategic Partners of the CCHN, namely, the ICRC, WFP, MSF, UNHCR, and HD. It gained greatly from the reflections of academic researchers and negotiation experts, such as Professor Alain Lempereur from Brandeis University, Laurent Combalbert and Marwan Mery from ADN Group, as well as team members of the Harvard Advanced Training Program on Humanitarian Action, in particular, Emmanuel Tronc, Rob Grace, and Anaïde Nahikian. Gale Halpern has provided much valued support and guidance in the editing of the first and second version of this Manual. The CCHN also benefited from the generous support of its donors, notably, the Swiss Department of Foreign Affairs, the German Federal Ministry of Foreign Affairs, the Swedish Ministry of Foreign Affairs, the Ministry of Foreign Affairs of Denmark, and the Ministry of Foreign and European Affairs of Luxembourg. Special thanks go to all the humanitarian practitioners, national and international staff, who shared their negotiation experiences over

recent years. Finally, I would like to acknowledge the contributions of CCHN Negotiation Specialists Naima Weibel, Will Harper, Karim Hafez and Joëlle Germanier whose constant and diligent work of elaborating tangible negotiation tools and methods based on current field practices is invaluable. These efforts will continue over the coming years, honing the *CCHN Field Manual* while opening new spaces of informal exchanges among frontline practitioners.

**Claude Bruderlein,**

Director, Centre of Competence on Humanitarian Negotiation (CCHN)

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# Introduction to the CCHN Field Manual



**T**he **CCHN Field Manual on Frontline Humanitarian Negotiation** proposes a comprehensive method to conduct humanitarian negotiation in a structured and customized manner. It offers a step-by-step pathway to plan and implement negotiation processes based on a set of practical tools designed to:

- Analyze complex negotiation environments;
- Assess the position, interests, and motives of all the parties involved;
- Build networks and leverage influence;
- Define the terms of a negotiation mandate and clarify negotiation objectives;
- Set limits (*red lines*) to these negotiations
- Identify specific objectives and design scenarios; and
- Enter transactions in an effective manner to ensure proper implementation.

These tools are further articulated in a separate *Negotiator's Notebook*, *Workbook*, and *Digital Platform* linking core knowledge on humanitarian negotiation to ongoing negotiation practices in field operations. The ultimate objective of the **CCHN Field Manual** is to facilitate the sharing of field experiences and reflections on humanitarian negotiation practices among the members of the CCHN community of practice.

By offering a simple experiential model, the goal of the **CCHN Field Manual** and its related platforms is to become an integral part of the professional conversations among humanitarian practitioners engaged in negotiation processes with civil authorities, military forces, non-state armed groups, affected communities, and other agencies and NGOs in the deployment of lifesaving assistance and protection programs.

### Defining Humanitarian Negotiation

Humanitarian negotiation is defined as a set of interactions between humanitarian organizations and parties to an armed conflict, as well as other relevant actors, aimed at establishing and maintaining the presence of these organizations in conflict environments, ensuring access to vulnerable groups, and facilitating the delivery of assistance and protection activities. Negotiations may involve both state and non-state actors. They include a relational component focused on building trust with the counterparts over time and a transactional component focused on determining and agreeing on the specific terms and logistics of humanitarian operations.

The **CCHN Field Manual** should serve as complementary reading to the existing literature on humanitarian principles and action. It assumes a core knowledge of humanitarian values and professional norms as well as a degree of proficiency in managing humanitarian programs. It will be most useful to practitioners who already benefit from some years of operational experience in conflict environments.

The **CCHN Field Manual** is not meant to define or promote specific objectives of humanitarian negotiation but to present systematic tools to improve negotiation practices based on the experience and wisdom of this growing community of practice.

### Sharing views and experiences on the challenges of negotiating on the frontlines

Frontline humanitarian negotiators are known to conduct highly contextual, personal, and confidential negotiation processes in some of the most remote and challenging environments. While being part of global operations, most frontline negotiators tend to work in isolation from each other and enjoy only limited access to critical information and discussions on negotiation practices in their own situation or across contexts. In recent years, humanitarian negotiators have increasingly recognized commonalities in their practices and the challenges they face in complex environments. The growing interdependence of humanitarian actors on the ground implies a greater need for sharing of experience and peer learning to improve humanitarian outcomes of frontline negotiations.

### Engaging in Critical Reflections on the Common Dilemmas of Humanitarian Negotiation

A paradox persists around the role that negotiators play in humanitarian action. On the one hand, humanitarian organizations have limited leeway to negotiate as their action is rooted in non-negotiable humanitarian principles – humanity, impartiality, neutrality, and independence. On the other hand, field operations rely on the ability of humanitarian professionals to seek and maintain access to affected populations by finding the proper arrangements to manage the expectations of the counterparts, while protecting the security of staff and cooperating with local actors. As a result, humanitarian actors find themselves caught between the need to respect humanitarian norms and principles and their role to find the right balance of interests with their counterparts to fulfill their mission and have an impact.

Many readers will find the tools and observations in the **CCHN Field Manual** quite familiar, as the tools and methods are for the most part drawn from actual practices. The content of the first version of the **CCHN Field Manual** was initially informed by the interviews of over 120 field practitioners who have shared their experiences and lessons learned in recent years. The second version has further benefitted from the inputs of over 1000 experienced field practitioners who have taken part in the peer

exchange programs organized by the CCHN and its partners. Humanitarian negotiation is more than a technique that one can learn from books and training workshops. It is also more than a personal skill or intuition based on the individual experiences of isolated colleagues. By facilitating the dissemination of experience across time and various locations, the CCHN emphasizes its belief that best practices in humanitarian negotiation should be the product of a joint endeavor among hundreds of frontline negotiators

# On the Origins of the CCHN Field Manual

across contexts and agencies. Through the sharing of negotiation practices and reflections among peers, involving comparing tactics, analyzing judgments, and reviewing errors, the CCHN hopes to bolster the collective wisdom of this emerging professional community.

The CCHN encourages humanitarian organizations to create a safe and positive environment in which negotiation experience can be shared and learned from among peers. Humanitarian professionals are invited to join such discussions in the course of CCHN regional and context-specific peer workshops as well as other CCHN peer exchange activities for field practitioners across organizations.<sup>1</sup>

The larger the community of practice, the deeper the negotiation experience and reflections of its members will be. As the CCHN continues to expand the circle of participants through its peer activities, it is expected that the experiential material contained in the **CCHN Field Manual** and related digital platforms will contribute to improving the capacity of humanitarian organizations to seek access to populations in need in increasingly complex environments.

Paradoxically, limited attention has been devoted so far to strengthening the negotiation capabilities of humanitarian organizations. While the demand for such skills and methods is constantly growing, there are few instances of training programs dedicated to humanitarian negotiation in field operations. Humanitarian organizations have often been uneasy about discussing their negotiation practices, considering the personal, contextual, and confidential character of relationships with counterparts. For many, negotiation with parties to armed conflict has been, and is still, often perceived as part of political interplays among states and other powerful actors taking place outside the humanitarian space and away from the recognized humanitarian principles. Field practitioners will recognize that negotiation has become a major part of their activities but remain uncomfortable in discussing their experience without a proper humanitarian language and framework. The few instances of literature on human-

itarian negotiation in the 20<sup>th</sup> century are often composed of over-glorified stories of engagements with little to no critical reflections on the tactical dilemmas of these interventions and their political environments. At the risk of downplaying the contributions of leading negotiators and the role of frontline humanitarian organizations, there has been little effort in recent decades to collect actual data on negotiation practices and systematize humanitarian negotiation tools and methods.

It is only since the late 1990s that reflections on humanitarian negotiation, mediation, and diplomacy have introduced new domains of policy inquiry. This expansion of observations of frontline engagements parallels the growing numbers of humanitarian actors entering this domain of activities since the end of the Cold War. This amplification is also the product of the increased blending of operational agendas from the traditional humanitarian action to preserve life and dignity to more development-oriented program-

1. For more information on the calendar of activities of the CCHN, please visit: <http://frontline-negotiations.org>.

ming, conflict management, and mediation activities. The first professional guidelines on humanitarian negotiations were published in the early 2000s by the Centre for Humanitarian Dialogue, OCHA and Conflict Dynamics International (see insert). As part of its institutional strategy calling for more evidence-based reflections on its operational practices, the ICRC undertook a first review of its negotiation practices starting in 2013 under the *Humanitarian Negotiation Exchange* (HNx) program, which further aimed at fostering a community of practice among ICRC negotiators. This effort prompted other organizations to join and engage in similar reviews.

It is in this context that the leadership of the five members of the *Strategic Partners on Humanitarian Negotiation* (ICRC, WFP, UNHCR, MSF and HD) created in late 2016 the Centre of Competence on Humanitarian Negotiation (CCHN), inspired by an ICRC internal platform favoring the exchange of negotiation experi-

ences among field practitioners. In the *Strategic Partners'* view, most of the knowledge and experience required to effectively undertake the challenges of frontline negotiation are already present in field operations, spread among experienced humanitarian professionals operating on the frontlines. The best way to build the capability of agencies to negotiate in these demanding circumstances is to facilitate the capture, analysis, and sharing of negotiation experiences among frontline negotiators and across agencies and contexts. The mission of the CCHN focuses specifically on creating a safe space among humanitarian negotiators to share their practices and to enable critical reflections on negotiation strategies and tactics in complex environments. These exchanges consequently nurture the elaboration of the **CCHN Field Manual** tailored to the needs and demands of field practitioners.

## Training and Policy Guidance in Humanitarian Negotiation

Starting in the late 1990s, research and policy centres invested in the development of the first guidance on humanitarian negotiation. Deborah Mancini-Griffoli and André Picot wrote a first *Humanitarian Negotiation Handbook* in 2004, published by the HD Centre, which recognized the need to plan and prepare a humanitarian negotiation process. In 2006, under the auspices of OCHA, Gerard McHugh and Manuel Bessler produced a *Manual for Practitioners on Humanitarian Negotiation with Armed Groups* to develop policy guidance on addressing the dilemmas of principled negotiations, later revised in 2011 by Conflict Dynamics International (CDI) and the Swiss Department of Foreign Affairs. More recently, training programs have been developed by CDI, the Clingendael Institute, CERAH, and the Danish Red Cross/the Norwegian Refugee Council, among others, introducing core knowledge, tools, and skills on humanitarian negotiation and community mediation. The peer workshops of the CCHN are the latest iteration of this process, opening a safe space to exchange negotiation experience and reflect on challenges and dilemmas of humanitarian negotiation.

# On the Role of the CCHN Community

Since the launch of the activities of the CCHN in 2016, this reflection has involved several hundred humanitarian professionals from various agencies and local organizations across field operations. As of October 2019, over a thousand field practitioners have taken part in CCHN peer-to-peer activities. These activities are based on the conscious efforts of participants to engage

in informal exchanges on personal negotiation experiences as a central means to learn common approaches to complex negotiations and to assist others.

As members of the CCHN community, field practitioners can further take part in specialized sessions on themes selected by participants in the peer workshops. These sessions may, in

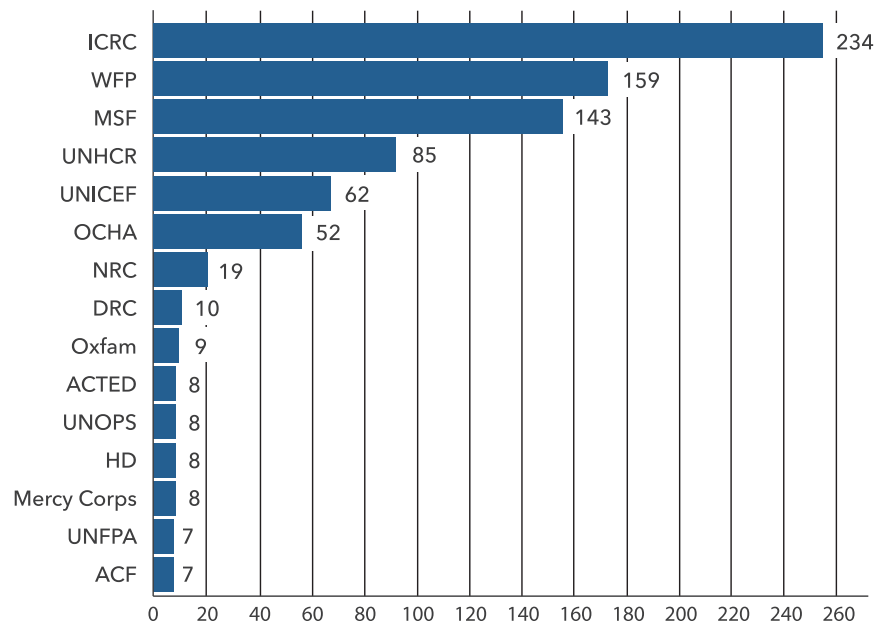


Figure 1 : Distribution of CCHN Peer Workshop participants by agencies (top 15) as of September 2019.

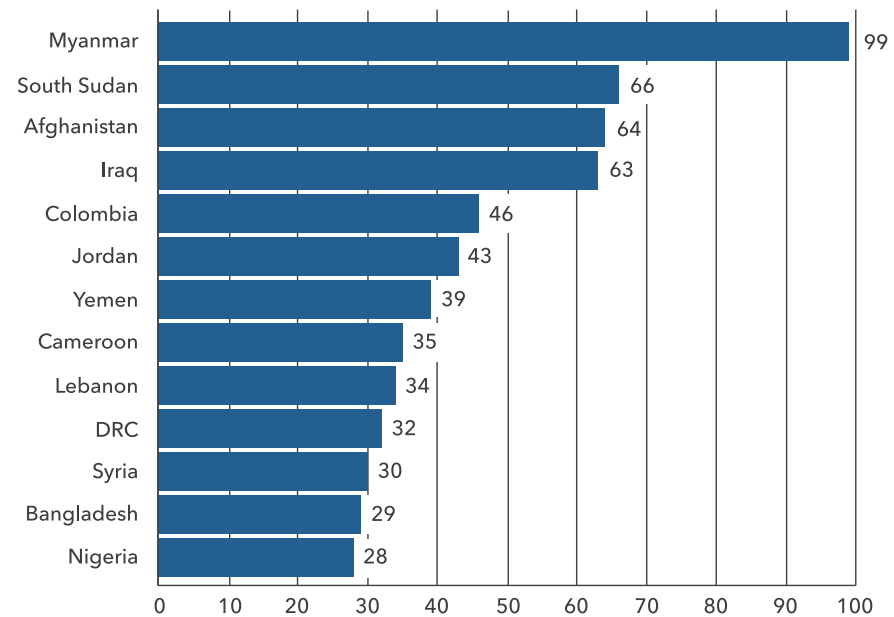


Figure 2 : Distribution of CCHN Peer Workshop participants by country of operations (top 13) as of September 2019.

turn, trigger the creation of “peer circles” of 10-15 members hosted by the CCHN who meet regularly to share information and review strategies of ongoing negotiation processes. Field research conducted by the CCHN and its academic partners on selected challenges and dilemmas of frontline negotiations further inform specialized sessions and peer circles as required by the members of the CCHN community. Finally, participants in the peer activities can opt to become *CCHN Facilitators* by following a dedicated training organized by the CCHN. *CCHN Facilitators* orient peers and manage exchanges

as well as guide the development of CCHN tools and methods. As the community progresses, the CCHN will be able to identify and review emerging challenges and dilemmas of humanitarian negotiation and develop pathways to deal with them.

At this early stage, members of the CCHN community have started conversations to define the core competences of frontline humanitarian negotiators in terms of knowledge, attitudes, and skills underpinning the necessary capabilities to undertake humanitarian negotiation.

## On the Planning of a Negotiation Process

This “competence chart” is designed to help members of the CCHN community, as well as their agencies, in focusing their attention on key features to invest in as they are considering ways to strengthen negotiation capabilities across humanitarian operations (see *Annex*). These

conversations have also led toward a greater awareness among community members about their commitment to colleagues on the frontlines as well as a sense of due diligence to agencies and other stakeholders in the development of this critical professional domain.

The **CCHN Field Manual** builds on the assumption that one needs to ascertain a common framework of analysis and vocabulary to be able to compare negotiation experiences across time, contexts and issues in a useful manner. While negotiation experiences are inherently personal and contextual in nature, they also present recurring dilemmas and challenges from which one can learn and instigate more effective tools and methods. These common features also support the establishment of a shared professional space for the planning of negotiation processes, exchanges of experience, and professional reflections.

From 2016 onward, the CCHN has been gathering information on the negotiation practices of several hundred humanitarian professionals covering their experience, tactics, and strategies. This empirical analysis was guided by the early reflections on humanitarian

negotiation practices conducted by 24 ICRC frontline negotiators in Naivasha, Kenya, in November 2014. The Naivasha gathering organized by the ICRC’s Humanitarian Exchange Platform - a precursor of the CCHN, produced a first model of a generic humanitarian negotiation process in terms of planning steps, consultations, and engagements with the counterparts and their stakeholders based on the negotiation experience of the ICRC participants. The original *Naivasha Grid* was presented as an ICRC planning tool for frontline humanitarian negotiation at the first Annual Meeting of Frontline Humanitarian Negotiators in October 2016.<sup>1</sup> The *Naivasha Grid* framework was further developed and adapted to a multi-agency setting by the CCHN in the following years. It became both an analytical tool to observe and review humanitarian negotiation processes across agencies and contexts and a

1. See the *Report of the First Annual Meeting of Frontline Humanitarian Negotiators*, Centre of Competence on Humanitarian Negotiation (CCHN), Geneva, October 2016, p. 23.

map to plan the successive tasks, roles, and responsibilities between the frontline negotiator, his/her support team, and the mandator responsible for framing the negotiation exercise in a given mandate (see Figure 3).

The *Naivasha Grid* confirms the leading role of the **frontline negotiator** in the negotiation process defined along the **Green Pathway**. This role is supported in an intermittent manner by the **negotiation team** which

the frontline negotiator is part of, along the **Yellow Pathway**, implying a critical dialogue between frontline negotiators and field colleagues to consider tactical options based on the interests and motives of counterparts, the specific objectives of the negotiation, the design of scenarios, and the mapping of the networks of influence. The whole negotiation process is framed by the **mandator**, along the **Red Pathway**, in terms of strategic objectives and red lines informed by institutional policies. These policies and objectives are assigned by the mandator to the negotiator, generally through the line management within the organization.

While the *Naivasha Grid* provides a set of logical pathways drawn from recent practices, it focuses primarily on the specific steps of a negotiation process. Several important aspects of humanitarian operations that surround and inform the negotiation process, including the assessment of needs, the design of programs, internal deliberations, and negotiation with the mandator, have been omitted from the *Grid*. The implementation of a final agreement is also not covered by the *Naivasha Grid*. While these aspects are central to humanitarian programming and action, they are not understood as key to the practice of a frontline negotiator in relation with his/her counterparts, which is the focus of the **CCHN Field Manual**.

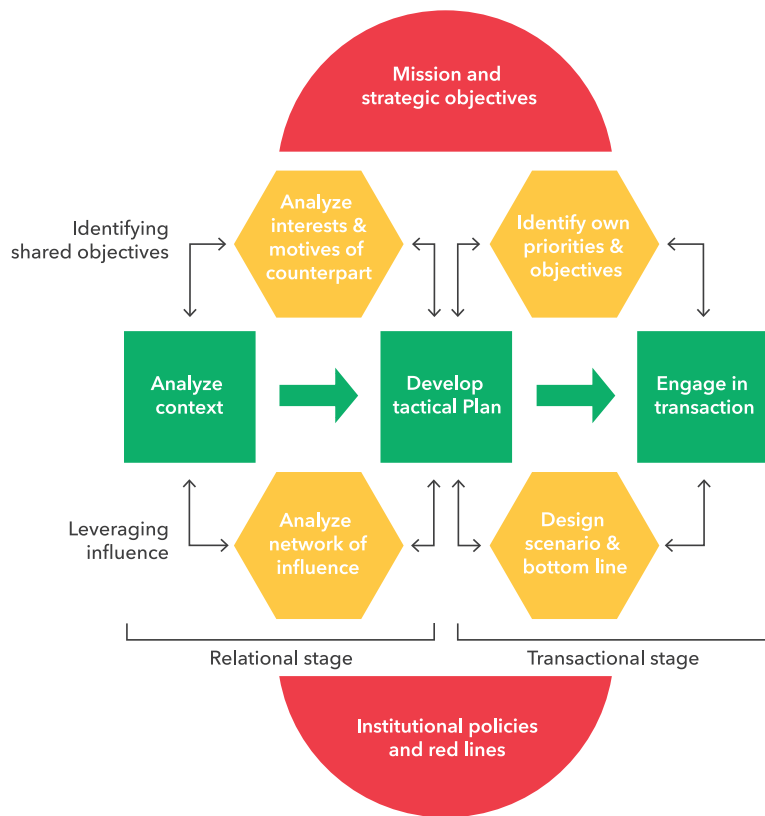


Figure 3: Naivasha Grid: Planning a Negotiation Process














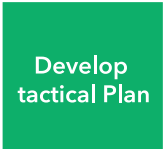

## Quick Guide on How to Use the CCHN Field Manual

The **CCHN Field Manual** presents humanitarian negotiation as a linear planning and deliberation process. It provides specific tools and reflections on every step of the process as well as a pattern of distribution of roles and responsibilities. It is important to mention that these steps and roles should not be taken in isolation. A manager or field operator can be engaged at various stages of concurrent negotiation processes in the same context where he/she may act alternatively as mandator, team member, or frontline negotiator, depending on the specific object of the negotiation and level of the counterpart. The *Naivasha Grid* encourages interactions between these steps and roles with the understanding that their actual distribution may evolve from one engagement to the next. A junior manager should therefore, for example, learn to lead a negotiation process on the frontline as well as play a support role as a team member and eventually mandate a negotiation process to a staff member under his/her supervision. The capabilities of

an organization to negotiate on the frontlines entail a collective endeavor where the three distinct roles are properly assigned and recognized as contributing equally to the success of the operation.

The **CCHN Field Manual** follows the distribution of roles and responsibilities documented in the Naivasha Grid by the CCHN Community in recent years. Hence:


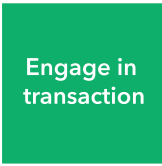
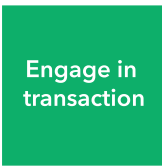






- The **Green** section of the *CCHN Field Manual* focuses on the specific tasks of the **FRONTLINE NEGOTIATOR** managing the relationship and leading the transactional discussion with the counterpart(s);
- The **Yellow** section focuses on the support role of the **NEGOTIATOR'S TEAM** in accompanying the frontline negotiator in the planning and critical review of the negotiation process; and

QUESTIONS AND TOPICS	RELEVANT AREAS OF THE CCHN FIELD MANUAL	RELEVANT TOOLS AND PAGES
How can I analyze a <b>negotiation environment</b> ?	 	Gathering quality information about the context: <b>P. 48-63</b> Drawing the island of agreements: <b>P. 64-84</b> Network mapping and leveraging influence: <b>P. 252-276</b>
How can I better understand the <b>position of the counterpart</b> ?	 	Analyzing the position of the counterpart: <b>P. 199-217</b> Network mapping and leveraging influence: <b>P. 252-276</b>
How can I define my <b>negotiation objectives</b> ?	 	Design of the mandate: <b>P. 319-331</b> Identifying one priorities and objectives: <b>P. 220-229</b>
How can I draw <b>scenarios of a negotiation</b> ?	 	Identification of red lines: <b>P. 342-374</b> Exploring the common shared space: <b>P. 230-249</b> Identifying the shared benefit of the negotiation: <b>P. 278-288</b> Evaluate cost-benefit of options: <b>P. 288-309</b>
What are my <b>red lines</b> and who determines them?		Identifying own priorities and objectives: <b>P. 220-229</b>
How can I <b>leverage influence</b> over the counterpart?	  	Analyzing the position of the counterpart: <b>P. 199-217</b> Network mapping and leveraging influence: <b>P. 252-276</b> Fostering legitimacy and building trust: <b>P. 90-104</b>
Do I have the <b>authority to negotiate</b> —and who decides?		Design of the mandate: <b>P. 319-331</b> External communication around the negotiation process: <b>P. 332-338</b>

- The **Red** section focuses on the role and responsibilities of the **MANDATOR** as part of the institutional hierarchy of the organization defining the terms of the mandate of the frontline negotiator, including its limits (red lines), and reviewing the results of the negotiation.

Readers will find an arrangement of practical tools for each role within each of the sections, accompanied by real-life examples. These tools have further been compiled in the workbook related to the **CCHN Field Manual** (available on the CCHN website) where practitioners can test their knowledge and apply the tools and methods to reflect on ongoing negotiations. The workbook should be not only a learning tool, but also a useful compilation of templates to use in a negotiation process. It is expected that negotiation practitioners will refer to the most relevant areas of the **CCHN Field Manual** in support of the planning of ongoing negotiation processes.

The following table assists readers in identifying the most relevant segments of the **CCHN Field Manual** based on the topics or questions that bring them to the **Manual**.

QUESTIONS AND TOPICS	RELEVANT AREAS OF THE CCHN FIELD MANUAL	RELEVANT TOOLS AND PAGES
How can I improve my <b>legitimacy as a negotiator</b> ?		Fostering legitimacy and building trust: <b>P. 90-104</b> Determining the typology of a humanitarian negotiation: <b>P. 106-136</b>
How can I deal with a <b>difficult or hostile interlocutor</b> ?		Addressing the human element of the transaction: <b>P. 178-188</b>
How can I ensure that the <b>agreement will be implemented</b> ?		Drawing the island of agreements: <b>P. 64-84</b> Creating a conducive environment for the transaction: <b>P. 156-166</b> Clarifying the terms of the transaction: <b>P. 168-177</b>
How can I build <b>trust with the counterpart</b> ?	 	Drawing the island of agreements: <b>P. 64-84</b> Fostering legitimacy and building trust: <b>P. 90-104</b>
How can I ensure the <b>safeguarding of institutional policies and principles</b> ?	 	Identification of red lines: <b>P. 342-374</b> Drawing the pathway of a normative negotiation: <b>P. 137-151</b>
What is the <b>role of a negotiator</b> ?	 	Design of the mandate: <b>P. 319-331</b> Fostering legitimacy and building trust: <b>P. 90-104</b>



# 1 | The frontline negotiator



## Role and tasks of the frontline negotiator

# Introduction

## OBJECTIVE OF THIS SECTION

The objective of the *Manual* is to provide a comprehensive pathway to plan effective negotiation processes for humanitarian professionals on the frontlines. This section focuses primarily on the specific tasks assigned to humanitarian negotiators, including context analysis, tactical planning, and trans-

saction with the counterparts. These tasks assume the support of the negotiation team accompanying the planning and review of the negotiation process (see Section 2 **Yellow**); and the framing and guidance of the mandator based on the institutional policies of the organization (see Section 3 **Red**).

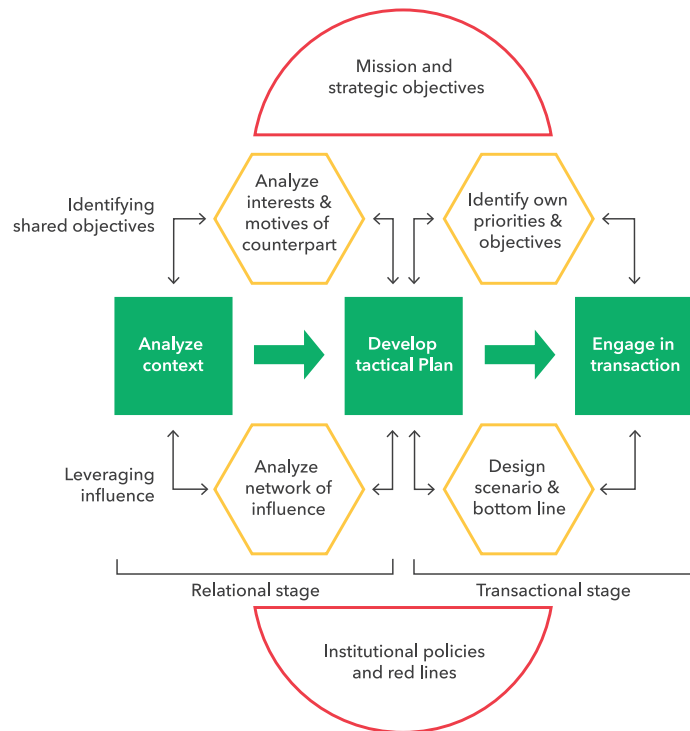


Figure 1 : On the specific tasks of frontline humanitarian negotiators

As described in the *Naivasha Grid*, frontline negotiators have a central role to play in a negotiation process as they represent the organization in a personal relationship with the counterparts. Building on the empirical analysis of negotiation practices produced by the CCHN and research conducted by Harvard's Advanced Training Program on Humanitarian Action (ATHA), one can observe that :

The success of a humanitarian negotiation is contingent on the ability of humanitarian negotiators to build trust as part of ongoing relationships with the counterparts, to identify shared objectives, and to have the capacity to leverage influence through the use of networks of stakeholders.

1. Humanitarian professionals operating on the frontlines have primary responsibility for establishing and maintaining the relationships with the counterparts on which agencies hope to build the necessary trust and predictability required by their operations;
2. These relationships should be understood as social constructs subject to the political, cultural, and social environments in which agencies operate; and
3. Understanding the context is therefore a critical step to preparing a humanitarian negotiation and engaging with the counterparts regarding access to the population in need, delivery of assistance, monitoring and protection activities, and enhancing the safety and security of staff, beneficiaries, and premises.

In this context, specific attention should be devoted to setting up a conducive environment for relationship building with counterparts in terms of:

1. Gathering information on the situation and analyzing the political and social environment in which the process will be conducted;

2. Developing tactical tools and plans to adapt the objectives of the organization to the specific environment and actors of the negotiation; and,

3. Engaging in fruitful transactions in order to produce benefits on all sides.

This section provides critical tools to assist frontline humanitarian negotiators in the elaboration of their negotiation approach across these three steps.



# Module A: Context Analysis

## INTRODUCTION

Analyzing the conflict environment is an integral part of the work of humanitarian professionals in the field. This task is of particular importance in frontline humanitarian negotiation in order to gather a solid understanding of the social,

cultural, and political aspects of the situation and to build a trusted relationship with the counterparts. This analysis is further preparation for reflections with the *negotiator's team* on the position, interests, and motives of the counterparts and

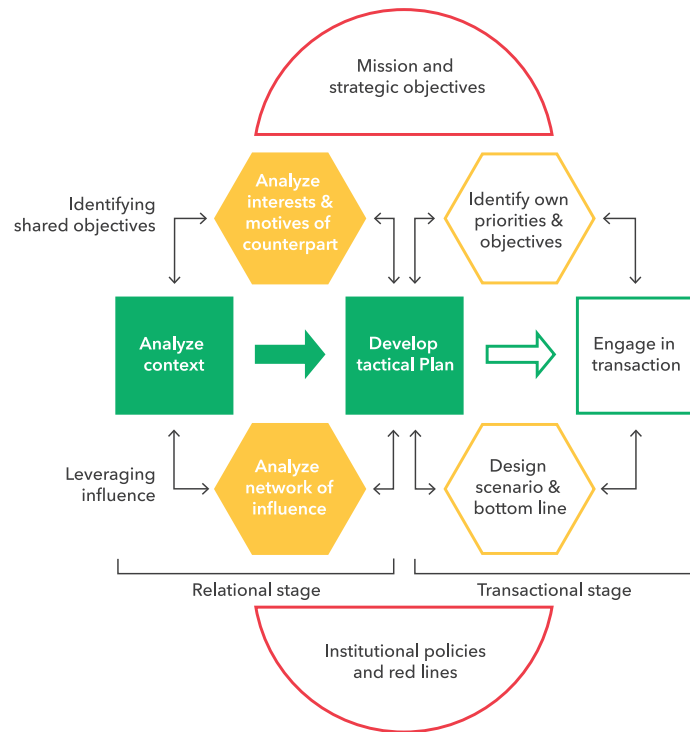


Figure 2: Analyzing context as a source of information for network mapping and analysis of the motives of counterparts



the mapping of the network of influence, as presented in the Naivasha Grid.

These tasks are at the core of the relational stage of the negotiation aimed at building and maintaining a rapport with counterparts and other stakeholders. This stage is also a time for the negotiation team to reflect with the humanitarian negotiator in the lead, compare notes with colleagues

from within and outside their organization and develop a critical sense about everyone's perception of the conflict environment. These reflective and consultative tools are presented in the next section (see Section 2 **Yellow**) on the role and tasks of the *negotiation team*. For now, this section focuses on practical ways to sort information about the context of a negotiation in preparation for the development of a tactical plan.





## TOOL 1: GATHERING QUALITY INFORMATION ABOUT THE CONTEXT

A humanitarian negotiation generally begins with two competing narratives about a situation. On one side, an organization is expressing serious concerns regarding the needs of a population affected by a conflict and offers its services as part of the humanitarian response. On the other side, the authority in charge of the population or of the access to the region is putting into question the accuracy or reliability of the information presented by the humanitarian organization, criticizing the priority of the proposed response, or challenge the mandate of the organization. The core goal of the negotiation process is to find a way to reconcile these two narratives around some pragmatic arrangements.

In the early stage of a negotiation process, the quality of the information brought forward by the humanitarian organization is of critical importance in determining the chance of success of the negotiation. The traction

Gathering quality information is often an undervalued stage of a negotiation. One can spend months negotiating access to an important location while missing critical information on the context, humanitarian needs, power networks, or other humanitarian actors operating in the area.

of the information supporting the offer of service surpasses by far the gravity or urgency of its concerns. In fact, the more intense the concerns expressed by the organization, the more scrutiny they will attract from counterparts regarding the *credibility* of the sources and the *reliability* of the information.

In times of emergency, it may be difficult to gather quality information due to the lack of access to the population or the complexity of the issues. However, one cannot overstate

the power of solid, unambiguous, and verifiable information in a negotiation process, even on issues that may not be central to the interaction for the purpose of demonstrating the credibility and legitimacy of the humanitarian organization and its negotiators. Rough assessments, while of value for rapid mobilization of resources, can turn into major liabilities at the negotiation table.

As a first step in planning a negotiation process, it is important to ensure that the negotiator and his/her team have all the necessary quality information about the context to establish and maintain the credibility required for the specific negotiation. The focus and depth of information will vary depending on the objective and environment of the negotiation.

While it may appear obvious, it is worth mentioning here some of the core issues and potential sources of information to start an analysis of the environment. The quality of information depends on several factors:

### Enhancing the Quality of Information

A statement such as:

*“We have information that dozens of families are starving in the areas under your control.”*

will have a limited impact at the negotiation table if it is not properly sourced, detailed, and corroborated.

While information like:

*“A local church has informed us last week that 125 people suffer from severe malnutrition, 35 of whom are children. 12 children have been put on therapeutic feeding at the local clinic.”*

will add significantly more traction not so much because of its dramatic character but because it demonstrates the ability of the organization to collect detailed information based on local contacts and then corroborate this information with other medical sources.

ELEMENTS OF INFORMATION	SOURCES
The political, social, cultural, economic, and legal aspects of the context, as well as causes and evolution of the conflict.	<i>Media, policy analysts, historians, political actors, entrepreneurs, lawyers, activists, etc.</i>
The humanitarian issues emerging from the context.	<i>Government, local authorities, communities affected, local NGOs, INGOs, other agencies, media, police, military.</i>
The people, processes, and operations involved in generating humanitarian needs.	
The people, processes, and operations involved in responding to humanitarian needs.	
Past and current negotiation processes and their actors.	<i>Local NGOs, agencies, their counterparts</i>
Challenges and dilemmas of these negotiations.	
Security issues involved in the negotiation and operations.	



1. The **knowledge of the source** of the information in the eyes of the counterpart (e.g., data collected by the local clinic);
2. The **integrity of the “chain of custody,”** i.e., all intermediaries are trusted and shared the same standards of authenticity and quality (e.g., local church);
3. The **clarity of the information** presented, i.e., with the least amount of ambiguities and vagueness; and,
4. The **information has been corroborated** by an independent third party.

These factors are often inter-related: clear, unambiguous information tends to come from a trusted source, unaltered in its transmission, and easy to corroborate by third parties. Ambiguous and unclear information tends to have a problematic source or chain of custody and is usually uncorroborated.

There are several barriers to accessing quality information,

especially on the frontlines, due to insecurity, suspicion, language, cultures, etc. Humanitarian organizations often find themselves relying on single-source assessments that can be easily instrumentalized, especially in tense environments. As a result, organizations often negotiate with a lack of contextual information compared to the counterparts. The latter will often try to assess from the outset their “information advantage” in relation to how much the humanitarian negotiator does or does not know about the context, since better access to information will give them an advantage in the negotiation. Unsurprisingly, counterparts in government or armed groups will not hesitate to bundle, hide, or contradict information from the humanitarian organization as a way to create confusion and uncertainty. The first defense against such tactics is to ensure that the negotiator has the best access possible to quality information from various sources in the preliminary stage of the negotiation process. A second challenge



in sharing information with the counterparts is being unable at times to disclose the source of the information out of concern for the security of the individual or organization that provided it. In the case of a single-source assessment, one may not even be able to share the original information out of fear of reprisal against the individual source. To counter such risks, organizations and negotiators should, by default, seek out multi-

ple sources of information in politically tense environments in order to mitigate potential pressure against identifiable sources (e.g., humanitarian negotiators should meet several representatives of a community or local authorities to corroborate information over time even if they provide little added value to the information itself).



## How to Evaluate and Sort the Quality of the Information

As discussed above, the planning of a negotiation requires the gathering of information about a number of issues, including, but not limited to, the humanitarian needs of the population. An organization's moral authority (which may not be seen as such by the counterpart) is not enough to leverage influence on the counterpart. Quality information must be presented to the counterpart to support the request of the humanitarian organization, uphold the credibility and legitimacy of the negotiator, and respond to the needs of the population in the most adequate manner.

The quality of the information can be sorted in a straightforward way, assigning a degree of relative quality to elements of information by adding nominal values from 0 (poor quality) to 3 (high quality) for each criterion mentioned above. It provides for a scale of a maximum 12 units (3 degrees X 4 criteria) for each element of information.

For example:

*As reported by a local NGO, Justice for All, community leaders estimate that there are between 20,000–30,000 inhabitants in Camp Alpha located on the outskirts of the city.*

What is the potential traction of this information as the negotiator meets with the authority to seek access to the IDP camp?



CRITERIA OF QUALITY	0 POOR QUALITY	1 LIMITED QUALITY	2 GOOD QUALITY	3 HIGHEST QUALITY
<b>Knowledge and integrity of the source</b>		Community leaders are direct witnesses with limited ability to assess the situation and perceived vested interest		
<b>Integrity of the "chain of custody"</b>			Probable validity if NGO was present in the camp	
<b>Clarity of the information</b>	1/3 variation is very large for an estimate			
<b>The information has been corroborated by an independent third party</b>	There is no corroboration			

**Total: 3/12**

The information in this example will have limited value in the negotiation process in view of the uncertainty attached to it. Corroborating and narrowing the estimated number of IDPs could help considerably in improving the value of the statement at the negotiation table.

**Another example :**

A nutritional assessment in the remote district Alpha conducted by Food Without Borders (FWB), a recognized INGO and implementing partner of your organization, demonstrates an increase in rates of malnutrition over the last six months, affecting especially children under 5 suffering from chronic wasting. This assessment was confirmed in the latest report of Help the Displaced International (HDI), a UK church-based charity. According to the Ministry of

Agriculture, the latest crops in the region yielded poor results due to the lack of rain, resulting, as observed by the local staff of FWB, in families selling household items in the market to be able to purchase minimal amounts of food. The situation is expected to worsen as winter approaches.

What is the value of this statement in terms of quality information as the negotiator meets with the authority to undertake a food distribution program in the district?



CRITERIA OF QUALITY	0 POOR QUALITY	1 LIMITED QUALITY	2 GOOD QUALITY	3 HIGHEST QUALITY
<b>Knowledge and integrity of the source</b>				Specialized INGO seems competent and has access to the population
<b>Integrity of the "chain of custody"</b>				This assessment was handed over directly by the source
<b>Clarity of the information</b>		Data seems insufficiently clear (rates and evolution are undocumented)		
<b>The information has been corroborated by an independent third party</b>				Observations of the MoA & HDI seem to corroborate the difficult food security situation

**Total: 10/12**

This statement presents high-quality information that may provide significant traction at the negotiation table. It could be further improved by gathering more detailed data on the evolution of malnutrition levels.

Analysis of the quality of the information can be amalgamated in one table which allows a sorting of priority elements based on their degree of quality, using the following example.

## EXAMPLE

### Protecting a local staffer against retribution

A truck driver comes to the office UK charity Seeds for All (SfA), and informs the officer in charge that, according to the villagers, a day laborer of SfA has been arrested in the morning at the main crossroad of the village by armed men in civilian clothes. He adds that the rumor says that the day laborer has been detained by the police of the district. He is suspected of stealing some of the seeds being distributed by SfA.

In view of the ethnic profile of the day laborer, SfA staff fear that he could face serious physical retribution in police custody if he were detained overnight. There are allegations of other incidents of ill treatment and forced disappearance by the police circulating within the community.

Questioned by the local staff of SfA, the head of the local police station denied detaining the individual. After some time and several conversations with family members of the police chief, it appears that the individual was transferred around noon from the police station to a remote location deep in the rural area of the district. Community members reported to SfA local staff that they have observed a police car leaving the village with the day laborer at 12h30.

What information will the SfA negotiator use in the first meeting with the head of police to find a solution to this problem and get the release of the day laborer before nightfall?

The following table can be used to sort the validity of each element of the case on a scale of 0 – 3) 3 being the highest quality.

ELEMENTS	SOURCE	CHAIN	CLARITY	CORROBORATED BY 3 <sup>RD</sup> PARTY	TOTAL MAX. 12 UNITS
<b>Information about the arrest of the day laborer</b>	3 (direct witness)	2 (benevolent truck driver)	3 (time and location of arrest is clear)	0	8
<b>Detention by the police</b>	1 (rumor)	2 (no clear chain)	1 (unclear about location)	0	4
<b>Stealing seeds</b>	1 (rumor)	2 (no clear chain)	1 (unclear charges)	0	4
<b>Fears of ethnic retribution</b>	3 (your staff)	3 (direct concerns)	2 (unclear threats)	0	8
<b>Allegation of ill treatment and forced disappearance by police</b>	2 (affected community members)	1 (no clear chain)	1 (unclear fears)	1 (by several members of the community)	5
<b>Testimony on the new place of detention in remote location</b>	2 (coming from the family of the head of police)	3 (coming from your staff)	3 (time and location of transfer)	3 (observed by community members)	11

Elements of information will present various degrees of quality (from 0 to 12). Bundling the five statements as the overarching story weakens the starting position of this negotiation. As the negotiator prepares to meet with the police chief, the most authoritative information (> 6) in terms of traction appears as:

1. (8 units) The day laborer was arrested in the morning at the crossroad by unknown men.
2. (11 units) There is clear information that the day laborer was transferred by the police to a remote location in the rural area at 12h30 today.

3. (8 units) There are fears of ethnic retribution.

The least informative and weakest elements (< 6) relate to:

- a) (5 units) There are unclear allegations of ill treatment and forced disappearance by the police.
- b) (4 units) There are rumors that the day laborer was detained at the police station in the village.
- c) (4 units) The day laborer is accused of stealing seeds distributed by SfA.



As a result, the representative of SfA should:

- Seek additional information to strengthen the case before the meeting (e.g., more details regarding the name and profile of the day laborer, the location of the police station in the rural area or information about the men who arrested him, allegations of ill treatment by the police);
- Skip over the weakest elements of information to increase the overall reliability of the case to be presented to the head of police; and,
- Recognize the limited information available but emphasize the trust in the strong elements.

Ultimately, the life and welfare of the day laborer will depend on the ability of the SfA negotiator to demonstrate from the outset, through the provision of quality information, the seriousness and networking capability of his/her organization within the political and social environment of the head of police. The negotiator should avoid introducing weak elements which will likely derail the process and strengthen the ability of the head of police to deny the involvement of his men.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

The gathering of quality information represents an important point of leverage in a complex negotiation and is a worthwhile investment in terms of time and resources. To draw an information advantage, the negotiator will need to diversify the sources of information and understandings of the situation to integrate new angles on central and lateral issues. The credibility and predictability of the organization depend on the negotiator's ability to discern the required quality of information in the eyes of the counterpart (i.e., the tolerance for uncertainties and vagueness). With relatively solid information, the negotiator will be able to project self-assurance and the right level of connections with the environment. Gathering such information takes time and requires specific skills. One should note that the negotiator should not aim to become a substantive expert on the object of the negotiation. On the contrary, experts may destabilize the counterpart and prompt a withdrawal from the discussion. Humanitarian negotiators can always call on more expertise as the support structure of the negotiation process.

In this context, frontline negotiators should consider :

- Identifying all the key elements of the organization's own narrative about a humanitarian situation and its context;
- Evaluating the quality of the information supporting the organization's starting position using the proposed grid;
- Depending on the availability of time and resources, enhancing the authority of selected elements by narrowing the statement, verifying the source, testing the integrity of the chain of custody, and/or looking for a third party to corroborate the observation.
- Finally, selecting the most relevant and reliable information to be presented at the early stage of the negotiation process, demonstrating the seriousness, capabilities, and connection of the organization to the counterparts.







## TOOL 2: DRAWING THE ISLAND OF AGREEMENTS

Humanitarian professionals have to acquire a good sense of the conflict situation to be able to operate in terms of population needs, programming, logistics, and risk management. Our common understanding of conflict environments is largely made of observable facts (e.g., hunger, insecurity, displaced populations, etc.) and commonly accepted norms (e.g., violent, tragic, disastrous, sad, etc.). These facts and norms form our reading of the reality. They also represent our vision of how we wish the reality would be construed by others. The reality is therefore as much an objective description of the environment in which we operate as a constructed “story” we use to project our vision and

### On the “kaleidoscopic” vision of humanitarian negotiators

Analyzing a context through a negotiation lens means integrating the counterpart’s subjective perspective into the equation, fully understanding that their vision of reality is an important building block of the relationship.

This “kaleidoscopic vision” of a situation can be easily confusing for humanitarian professionals, especially when the efficiency of their operation depends on an accurate appreciation of the situation based on solid and objective evidence of the population’s needs, the ongoing security risks, the required logistics, etc. Context analysis in a negotiation process should be distinguished from operational and technical analysis serving the planning of an operation and should include an appreciation of the counterpart’s perspective.

## Understanding the Negotiation Environment

Addressing a famine situation through a negotiation process requires a solid understanding of the political, cultural, and social underpinnings of the environment and the role of food in the distribution of power between social players at the national, local, and even household levels, as well as of the potential divergent or convergent norms associated with the situation.

mission through it. Recognition of the subjective nature of our understanding of “reality” is of importance in frontline negotiations, as the starting point of a negotiation process is generally a mix of divergent narratives about reality —i.e., the parties to the negotiation see the world differently. The purpose of this module is to propose tools that will help humanitarian negotiators to better perceive the counterpart’s reading of reality and find areas of agreement in order to start the conversation about finding pragmatic solutions to the humanitarian needs of the population.

Relationships with counterparts are social constructs composed of intertwined stories and shared beliefs rather than assertions. Analysis of a negotiation environment is therefore not about getting the facts straight

on the situation independently from the cultural, political, or social biases of the parties to the negotiation. On the contrary, analyzing a negotiation environment is about understanding the different “realities” perceived by the parties to the negotiation in terms of the causes of the conflict, its actors, or the status and needs of the affected population. At the core of a negotiation process, one will always find an attempt by a party, either a humanitarian organization or its counterpart, to override the competing party’s perceptions of the facts and social norms of a situation, triggering a sense of responsibility to act (e.g., granting access to a population in need).

**Definition of a fact:** Facts are observable elements considered by the observer to be true; things known to have happened or assertions based on a personal experience.

**Definition of a norm:** Norms are ways of behaving that are considered normal in a particular culture or society, or a desired behavior that a group of people believes in. Norms give meaning to communities that define themselves through their identity and common values.

The negotiation environment requires not only a cultural and social fluency to understand the counterpart's narrative, but also an ability to integrate often contradictory assertions into the agency's own analysis and discourse as one strives to become more pragmatic. Hence, an operational agency may describe a "famine" situation based on factual elements such as the nutritional status of a population where the scarcity of food is threatening the lives of a large number of people. But "famine" can have a different normative reading based on political, cultural, and social values of the dominant group controlling access to food. In some negotiations, the determination of a "famine" situation may be welcomed by the counterpart; in others, it may be rejected by the counter-

part regardless of the objective assessment of the agency.

This contextual dynamic applies to the application of international norms such as humanitarian access. Negotiating access does not require the parties to agree on the existence of an international norm of access. At times, the international norm will be recognized by the counterparts; at other times, the international norm will be rejected. Yet, access to populations can be negotiated on multiple grounds (e.g., moral, cultural, religious, professional, etc.) that may be more acceptable to the counterparts and communities affected. Parties to the negotiation may agree in effect about the implementation of an international norm without ever agreeing about the international norm itself.

This open-minded approach applies to determining features of an affected population in terms of age (e.g., who can be qualified as a child in the context), gender (e.g., access to women as vulnerable groups), social status (e.g., who should be recognized as the leaders). While agencies may consider these differences as the product of a lack of information on the side of the counterpart or a straight violation of an internationally recognized norm, negotiators should read beyond the apparent disagreement about facts

and norms and remain cautious about such "disagreement." This dissociation between the operational and advocacy roles of an organization and humanitarian negotiation often require setting up a well-articulated mandate establishing the negotiation space with distinct roles (see Introduction to the **Red** Section) so as to avoid creating confusion in the implementation of the agreement where the two realities (the agreed subjective vision of the parties vs. the objective vision of the operators) may clash.

### Advocacy vs. Negotiation

Humanitarian agencies have two distinct and at times conflicting roles. On the one hand, they have been established to promote and be the guardian of the core values of humanity in some of the most challenging environments. They should observe and report on violations of internationally agreed norms. On the other hand, they are mandated to find pragmatic solutions with parties to armed conflict to ensure the assistance and protection of the most vulnerable populations. The latter role involves seeking a common understanding about the relevant facts and norms. The point of a humanitarian negotiation is not to prove one vision is superior to the other but to build a trustful relationship conducive to reaching an operational agreement.

The quality of the context analysis therefore depends on the ability of the humanitarian negotiators to overlay the appropriate cultural, social, or political filters on their reading of the situation to find the correct interpretation in the eyes of the parties. The point at which these subjective visions meet or overlap is referred to later as the 'island of agreements' of a negotiation process, where a relationship of trust can be built despite the differences of view on issues on the negotiation table. In this sense, the relational stage of a negoti-

ation process portrays the most agreeable facts and most convergent norms supporting the search for a pragmatic agreement between the parties.

What might seem paradoxical is that, for a negotiation to take place, even on the most contentious issue, several agreed facts or converging norms must be in place to allow the conduct of the negotiation process. Any disagreement entails a number of intertwined agreements on facts and convergence on norms. To engage in a negotiation process, parties

need to concur, even if implicitly, on selected elements. In other words:

- To **disagree effectively on facts** (e.g., denying the prevalence of a famine in a particular context), parties implicitly need to agree on some norms (famine-stricken population would have the right to food);
- Conversely, to **disagree effectively on norms** (e.g., denying the existence of a right to food), parties implicitly need to **agree on some facts** (the prevalence of a famine situation).

A party may also concur on other facts (e.g., difficulty of road access) and norms (e.g., diplomatic protocols) less relevant to the negotiation. Compiling jointly all the agreed facts and convergent norms opens the possibility of a positive relationship, which is central to a humanitarian negotiation; hence, the importance of building this relationship despite the differences. (No other types of negotiation processes follow this

model.) A party may at times disagree on all the proposed facts and norms of a negotiation (e.g., denying the factual prevalence of a famine situation and the existence of a right to food), but such a position would prevent building a relationship and close the avenue of the substantive negotiation. If any party intends to obtain a benefit from the negotiation, it will most likely concur on some of the facts and/or some of the norms of the case. Recognizing from the outset some of these implicit areas or so-called islands of agreements on elements that may appear initially as secondary may help to establish a pathway for a constructive and trustful dialogue, especially in tense conflict environments.

To help sort the multiplicity of perspectives and subjectivity of perceptions, one may consider filtering information on a given negotiation environment based on a model distinguishing:

1. **Factual negotiations**, aimed at bridging the various technical understandings among

### On the Paradox of Humanitarian Negotiations

Humanitarian negotiation focuses generally on bridging a gap of understandings between the parties on either a factual disagreement (e.g., prevalence of a measles epidemic) or a divergence on applicable norms (e.g., mandate to vaccinate). To assert contested facts, a party often needs to agree, even implicitly, on convergent norms. Conversely, to assert a divergent norm, a party is more likely to agree on some facts of the situation. This somewhat counterintuitive interdependence between facts and norms represents a significant asset for frontline negotiators on which they may build a relationship with the counterparts, even in a very divisive environment.

the parties of the factual aspects of an operation (e.g., how many refugees who need assistance are in the refugee camp), **while assuming** a convergence of views on the normative aspects of a situation (e.g., who qualifies as a “refugee,” what are the refugees’ rights to assistance, etc.);

vs.

## 2. Normative negotiations,

aimed at bridging the various professional or political understandings among the parties on the applicable norms regulating the behaviors of the parties in a particular situation (e.g., what are the obligations of the host state regarding the refugee population, what is the role of a humanitarian organization, what is the legal status of a particular population), **while assuming** a common understanding regarding the factual aspects of an operation (e.g., the number of refugees and their needs).

While cultural settings of front-line negotiations may vary, many negotiators regularly refer to agreed facts or convergent norms that may have little to do with the object of the negotiation—for instance, common interests in sports, food, or music, or common vexations about hierarchy or the pressure from the community—which can help build empathy for their position or situation. At times, the common appreciation of patience and reflection over tea may become a turning point of a relationship in a tense negotiation process. The point is to create a shared experience between the negotiators; to posit the negotiation as a co-owned process of discovery of various spaces of agreement. From there, frontline negotiators can move to build bridges and seek to establish a dialogue on some agreed facts or convergent norms as points of departure toward more substantive issues as the dialogue progresses and the trust builds up.

### What Are Negotiable Facts?

Facts that may be discussed in a factual negotiation include:

- Number and features of the beneficiary population
- Location of this population
- Technical terms of the assistance programs (time, date, mode of operation)
- Nutritional and health status of the population, etc.

### What Are Negotiable Norms?

Norms that can be discussed in a negotiation process include:

- Right of access to the beneficiary population
- Obligations of the parties
- Legal status of the population
- Priority of the operation, etc.

### Building an Island of Agreements

Building a relationship with a counterpart requires deliberate steps to ascertain a space of agreement between the two parties drawing from the paradox of frontline humanitarian negotiations. Once the negotiator has been able to sort out the facts and norms of a given negotiation environment, the next step of the context analysis is to understand which of these facts are agreed (shared and accepted by both parties) or contested (where one party

has a different view or understanding of the factual elements), and which norms are convergent (as a shared belief between the parties) or, on the contrary, divergent (as the products of two separate social constructs.) The two examples below are drawn from current practice and are presented to illustrate the process.

## EXAMPLE 1

### Factual Negotiation: Contested Facts/Convergent Norms

In a discussion with the representative of International Food Relief (IFR), an international NGO, the Governor in charge of the IDPs (internally displaced persons) in the Northern District of Country A is contesting IFR's assessment that there is severe malnutrition among the displaced population in a specific camp within his district. According to him, there is no actual malnutrition among the displaced and thus no need for the humanitarian agency to implement an emergency nutritional program for them. However, there is, in his view, malnutrition in other parts of the District among local communities, and he asks IFR to assist these populations under IFR's humanitarian mission. IFR did not observe comparable levels of malnutrition in the host community.

In Example 1, the Governor is contesting the fact presented by IFR that there is severe malnutrition within the IDP camps. The Governor argues that the food should be distributed among members of the host community where malnutrition is, in his view, "real." There are two visions of the reality that are in conflict. The focus of this factual negotiation between the Governor and IFR will be to demonstrate the prevalence of malnutrition rates among the IDPs compared to the local population while building on a

dialogue on the shared (although implicit) norms regarding alleviating hunger and the recognition of the experience, expertise, and mandate of IFR. The compromise will probably take the shape of a technical distribution scheme that provides for the IDP population most in need while also alleviating hunger within the host community as long as it can be documented as a recognizable fact for IFR.

## EXAMPLE 2

### Normative Negotiation: Agreed Facts/Divergent Norms

Several hundred boys as young as 14 years old are openly recruited every year into community-based militias under the control of the military of Country A, which is engaged in an armed conflict with rebel groups in rural areas. While international law prohibits the recruitment of children under 18 years, the military commander and community leaders of the district explain to the representative of Children Protection International (CPI), the INGO wishing to provide medical assistance, that they believe that a boy becomes an adult by joining the community militia from the age of 14 years as a cultural sign of bravery and courage. CPI wonders if providing medical assistance to child soldiers in this context is facilitating the recruitment of children and therefore contributing to the commission of a war crime.

To engage in a normative negotiation, one has to understand that norms are essentially *shared beliefs* of a community or society. Normative negotiation always implies a conflict of norms between international standards or policies of the organization and the norms of the counterparts controlling access to the territory and population. These are two sides believing in two distinct desired behaviors. There is thus a tension between these two norms and societies.

In this example, the fact that 14- to 17-year-old youths re recruited into armed militias is not in question. The issue of the negotiation is to determine the applicable norm, i.e., to what extent recruitment of 14- to 17-year-olds is "normal," and to determine which group will be the culture or society of reference (e.g., the youths themselves, the community affected by this practice, the military of Country A, or the international community). Ultimately, should

CPI consider the recruitment of these young persons as “normal” vs. “abnormal” in their program of assistance, and how far can the convergence on norms be as a precondition to medical assistance? When one is facing a **normative negotiation**, the negotiation will deal with differences in political, social, or cultural norms, which are much more difficult and riskier to compromise on (e.g., a “deal” around 16 years old as an agreed norm between CPI and the commander could be as inappropriate as 14 or 18 years old.) Here the negotiators will need to address the social consensus around the recruitment of children and its cost/benefit for the affected community while building a dialogue on some observable facts (e.g.,

number of children recruited, their health status, etc.). One may argue that such dialogue can take place only with some recognition of the factual benefit (to the counterpart’s culture) of youth recruitment (bravery and adult rituals) as well as the negative impact on minors of being part of the militia. **Ultimately, the job of the negotiator is not to resolve the conflict of norms** but to find a way for CPI to operate in favor of 14- to 18-year-olds despite the conflict of norms (e.g., binding an assistance program with dissemination of information on international law).

## Application of the tool

This segment presents a set of practical steps to engage in a proper context analysis of a negotiation process. There are three main steps to the analysis of a complex negotiation environment.

### STEP

#### 1

## Sorting and qualifying elements arising in a negotiation environment

The first step is the identification of the key facts and norms of a humanitarian situation, drawing from the narratives of the humanitarian agency and its counterpart(s), the parties to the negotiation process. Once these main facts and norms have been identified, one should determine facts that are agreed vs. those that are contested, and norms that are convergent vs. those that are divergent, between one’s agency and the counterpart(s). For example, taking the narrative of a fictive situation on the border of Country A and Country B:

### EXAMPLE

#### PROVIDING AID TO DISPLACED POPULATION IN THE NO MAN’S LAND

A large number of displaced persons seeking refuge from armed violence in Country A have been blocked in a makeshift camp in the no man’s land between Country A and Country B.

Country B has denied access to its territory, arguing that the displaced persons have no right to enter its domain. Representatives of Country B doubt that there are very many of them and are



not sure about their precise location. According to data collected by local NGOs, the nutritional situation in the makeshift camp has been deteriorating steadily over the past few days.

Humanitarian organizations are seeking access to the population in need from the territory of Country B. They call on the humanitarian obligations of Country B to allow immediate access across its border. Country B is rejecting these appeals, arguing that: 1) numbers are exaggerated; 2) many of the displaced are in fact dangerous armed elements; and 3) assistance should come from the territory of Country A, which has the responsibility to provide for the needs of its nationals.

Due to the conflict situation, it is unlikely that humanitarian organizations will be able to access the population in need from Country A in the near future. While Country B recognizes the importance of humanitarian values, it intends to prioritize the security of its nationals.

### One needs first to filter:

The agreed facts (between the humanitarian negotiator and the counterparts)

The contested facts (by any of the parties)

The convergent norms (between the humanitarian negotiator and the counterpart)

The divergent norms (by any of the parties)

A large number of displaced persons seeking refuge from armed violence in Country A have been blocked in a makeshift camp in the no man's land between Country A and Country B.

Country B has denied access to its territory, arguing that the displaced persons have no right to enter its domain. Representatives of Country B doubt that there are very many of them and are not sure about their precise location.

According to data collected by local NGOs, the nutritional situation in the makeshift camp has been deteriorating steadily over the past few days.

Humanitarian organizations are seeking access to the populations in need from the territory of Country B. They call on the humanitarian obligations of Country B under international law to allow immediate access across its border.

Country B is rejecting these appeals arguing that: 1) numbers are exaggerated; 2) many of the displaced are in fact dangerous armed elements; and 3) assistance should primarily come from the territory of Country A, which has the responsibility to provide for the needs of its nationals.

Due to the conflict situation, it is unlikely that humanitarian organizations will be able to access the populations in need from Country A in the near future. While Country B recognizes the importance of humanitarian values, it intends to prioritize the security of its nationals over the one of foreigners.

## Recognizing which areas of the conversation are most/least promising in the establishment of a relationship and which concrete issues will need to be negotiated with the counterparts

The second step of the process is to determine the nature of the upcoming negotiation (factual or normative) and identify the inherent areas of agreement/convergence on which a negotiator can start establishing a dialogue. Based on this determination, the negotiator can prepare a series of issues from the most to the least agreeable/convergent points to be discussed and proceed in defining the pathway of the negotiation based on a relationship-building approach.

The facts and norms of the case mentioned above can then be sorted based on the narrative collected and put in specific columns:

Points to be clarified with factual evidence	Points of factual agreement to start the dialogue	Points to be underlined as convergent values	Points of divergence on norms to be negotiated
<b>CONTESTED FACTS</b>	<b>AGREED FACTS</b>	<b>CONVERGENT NORMS</b>	<b>DIVERGENT NORMS</b>
How many displaced persons are in the area?	There are displaced persons from Country A in the no man's land.	There is a legitimate border between Country A and Country B. B has the right to defend the integrity of its territory and prevent illegal entry.	Humanitarian organizations have a right of access to people in need under international law.
How dire is the situation? Who is in need?	People are blocked in the no man's land, in a dire situation in terms of shelter and nutrition.	We should not allow people to die from starvation.	Who is responsible for providing for the needs of the population? Is Country B in any way responsible to provide access to this population?
Are there armed elements among the civilians? Even if there are armed elements, what is the potential threat of allowing these people into Country B?	The location of the no man's land.	People have a right to flee armed violence.	No one has a right to enter Country B simply because they flee armed violence
How likely can access from Country A be arranged in the near future?	There is little prospect of improvement of the situation without immediate access to the displaced.	Priority of any government should be the security of its nationals.	Everyone has a right to seek asylum and be protected from persecution.

In this example, facts of the case about the existence of the displaced population, its location, and its needs are mostly uncontested. Some additional facts may need to be clarified as part of the introductory dialogue on the context. Some norms are shared as well. The focus of the negotiation per se will be on the normative issues

at stake, namely, who is in charge of responding to these needs, what are the motives to reject access from Country B, and what are the responsibilities toward this population.





### **Normative Negotiation :**

In this particular case, one may consider focusing on agreed facts as a point of departure :

1. Inquiring about the location of the displaced populations;
2. Discussing the food security situation on the border based on factual information the local organizations may have gathered;
3. Trying to identify jointly the needs of the population as a way to plan an operation;
4. Planning the logistics of the supply chain to the affected populations.

Based on these points of potential factual agreements, one may consider building a rapport on the humanitarian values and norms of assisting these populations and clarifying the threats associated with humanitarian access to the populations in need from Country B. Moving from this "island of agreement," humanitarian negotiators can then focus on the more difficult issues of normative access to the population.

### **Factual Negotiation :**

In such case, one may consider :

1. Reviewing the legal framework of humanitarian organizations working in the country and discussing their professional experience working in sensitive border areas;
2. Discussing the terms of welcoming refugees in the country;
3. Discussing ways to prevent security risks associated with cross-border activities;
4. Setting planning for major assistance programs at the border.

Based on these points of convergence at the normative level, one may consider building a rapport on the factual dimension of the current crisis and the current needs of assisting these populations in the no man's land from the territory of Country B.

Interestingly, the same analysis can be done with a factual negotiation (vs. the preceding plans for a normative negotiation), starting with a statement on converging norms if these represent a more solid basis for a dialogue with the counterparts and then delving into contested facts about the existence of this population.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

Conducting a proper context analysis of a negotiation environment is a critical component of a negotiation process. This analysis is distinct from operational or security assessments as it puts the subjective appreciation of counterparts front and center.

In this sense, frontline negotiators should consider:

- First identifying which are the factual and which are the normative elements of the negotiating environment. Then distinguishing between agreed and contested facts and between convergent and divergent norms.
- Looking for agreed facts and convergent norms as potential points of departure of a dialogue with counterparts to build a positive and predictable relationship before addressing the issues of tension. These potential points of departure will later on allow the emergence of a space of compromise between the parties and of practical and feasible options.
- In a factual negotiation (i.e., bridging different understandings on facts), aiming to demonstrate the facts through evidence and expertise while recognizing the convergence of norms.
- In a normative negotiation (i.e., bridging different understandings of what is “normal”), navigating the tensions between the two norms while agreeing about facts and exploring the spectrum of possibilities to find a pragmatic solution that provides benefits to all parties.
- Taking some distance from their own understanding of objective facts and international norms (i.e., avoid being dogmatic about one’s perceptions) so as to be able to listen and understand the arguments of the counterparts. Negotiators are not mandated to convince the other side about one version of reality or to ensure compliance of the institutional norms, but rather to find workable solutions to a humanitarian problem within some limitations specified in their respective mandate.

# Module B: Tactical Plan



## INTRODUCTION

Humanitarian negotiation is centered on an effort of frontline negotiators to build a trustful and predictable relationship with their counterparts as a way to create a conducive dialogue and seek the consent of the parties to assist the affected population. The degree of consent may vary depending on the willingness of the counterparts to accept or simply tolerate the presence and activities of humanitarian organizations.

While this principled approach is the most consistent with humanitarian actions across conflict zones, it has also been put to the test in increasingly complex and fragmented environments such as Afghanistan, Somalia, or Yemen, where the control over territory is challenged by governments or a multitude of armed groups that may prohibit the access of agencies to vulnerable populations. Hence, humanitarian organiza-

In increasingly fragmented environments, the role of humanitarian negotiators is gradually shifting from gaining acceptance to seeking a minimum of tolerance toward the presence and activities of humanitarian organizations. Maintaining access depends on managing risks while assessing how receptive local leaders and communities are to humanitarian action. Proximity to the field, regular contacts with counterparts, and empathy toward local concerns are paramount to the success of humanitarian negotiation and the safety of staff in these environments. Ultimately, access should never be taken for granted or understood as a license to operate at will in a conflict environment. Rather, the work of humanitarian negotiators entails ongoing efforts to engender a “suspension of suspicions” toward the presence and activities of their organizations.

tions find themselves managing varying degrees of consent and opposition among diverse conflict actors as well as shielding themselves from violent opposition elements opposed to their presence. The “bunkerization” of humanitarian organizations is, consequently, affecting their ability to build trust with the parties and further amalgamate the perceptions of the counterparts regarding the political character of foreign organizations.

The original concept of “humanitarian space” entails strict directives under which humanitarian organizations should be free to act without interference, and the affected population should have the right to receive life-saving assistance. This 1990’s vision was first articulated by former Médecins-Sans-Frontières (MSF) President Dr. Rony Brauman and adopted by most humanitarian organizations in the early 2000s based on a loose and variable understanding of humanitarian principles. While having strong ideological undertones in terms of the imprimatur of humanitarian organizations over their



zone of influence, the concept of humanitarian space implies a large degree of passive coexistence among political, development, and security agendas on one side and humanitarian organizations on the other as a means to maintain the integrity of humanitarian programming. It is no coincidence that this restricted vision of humanitarian action was conceived by MSF within their context as a strictly medical organization focused on saving lives and treating the sick and wounded, rather than dealing with the political causes and social consequences of armed conflicts.

Yet, the humanitarian space has been under increasing pres-

sure by the expansion of peace enforcement activities and the imposition of counterterrorism restrictions on relief programs. Humanitarian agencies have been further confronted with the rapid instrumentalization of their relief and protection activities by political actors, host governments, and donors. This politicization of aid has in turn pushed agencies to engage proactively with counterparts and find pragmatic compromises between the needs of the population, the tactical interests of the parties,

and the priorities of the agencies. Humanitarian negotiators play a key role in dealing with the increasing permeability of the humanitarian space as it defines the new limits of humanitarian action in polarized environments. Hence, humanitarian negotiation implies a tactical shift from a discourse of entitlement around access to one built on cooperation and trust between the parties and stakeholders. Managing these relationships has become a critical aspect of the negotiator’s tactical plan.

### **From Humanitarian Entitlement to Humanitarian Engagement**

Humanitarian negotiation is no longer only about seeking the unilateral consent of individual counterparts to allow the agency to operate in a rigid “principled space,” but rather building the resilience of agencies to operate safely in increasingly unpredictable operational spaces with multiple stakeholders and multilayered agendas involved. A useful concept is “humanitarian engagement,” focusing on the degree of predictability and trust one can derive from the relationships with the parties in the particular circumstances. As a result, agencies’ access to vulnerable populations is as good as the intensity and quality of their engagement with all the parties concerned.

Therefore, humanitarian negotiators must work with the best information available on the conflict situation, its actors, their interests, motives, and values, as well as their network of influence, to develop their engagement over time. This leads to the development of a tactical plan, based on the shared values and tactical interests of the parties to the negotiation. The tactical stage of a negotiation is geared toward establishing the basis of a frank dialogue to support a set of necessary political, professional, and technical transactions with the parties and maintain their continued support. As every agreement entails costs and bene-

The fact that a counterpart rejects the terms of an operation is by no means the end of the humanitarian negotiation. It represents only a moment in a relationship. All humanitarian negotiators, even the most agile, are bound to reach the limits of acceptance of their counterpart. Their capacity to maintain the interest and trust of the counterparts in these circumstances is key.

fits, as well as various risks for the parties, the main objective of this stage is to create a viable relationship between the parties that will stand the test of time and shifting interests. Building on the context analysis detailed in the previous segment, the tactical stage of the planning is informed by additional analyses by the negotiation team that will inform the design of the tactics.

Among these, one can find in Section 2 **Yellow** specific tools to work with the negotiation team to:

1. **Analyze the position, tactical reasoning, values, and motives** of the counterparts;
2. **Map out the relationships among the stakeholders** and analyze the network of influence;
3. **Identify the priorities and objectives of the negotiation**, as a critical point in the design of the tactics;
4. **Set the scenarios and bottom lines of the negotiation**, framing the tactical plan.

These four elements should ideally be part of the role and responsibility of the negotiation team in support of the front-line negotiator and should be informed by discussions among the team in the field based on the observations of its members.

The following tools will focus primarily on the tactical angle of the frontline negotiators, which involves:

1. **Fostering the legitimacy of the negotiator** and building trust;
2. Determining the **type of the negotiation** and adapting the engagement strategy accordingly; and,
3. **Addressing a genuine conflict of norms** through a normative negotiation.

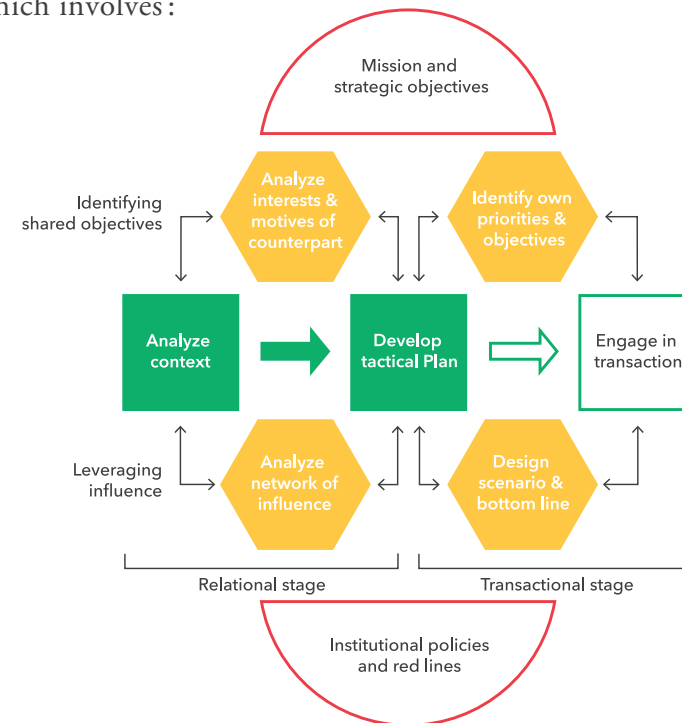


Figure 3: On the specific tasks of frontline humanitarian negotiators



### TOOL 3: FOSTERING LEGITIMACY AND BUILDING TRUST

Shifting from a space of humanitarian entitlement to one of humanitarian engagement represents a significant transformation of the ethos and work method of humanitarian professionals as they get involved in complex environments. While humanitarian agencies have been advocating for a recognition of a right of access to

vulnerable populations based on humanitarian principles for several decades, frontline humanitarian negotiators have been increasingly relying on their ability to foster legitimacy and build a trustful relationship with their counterparts to seek and guarantee this access. This relationship and its implied equality of the parties become the central asset to cultivate. In this context, this Manual proposes a two-step approach for humanitarian negotiators to enhance the legitimacy and build trust addressing:

1. The sources of legitimacy of the humanitarian negotiator; and
2. The ways to build trust with the counterparts in these sources.

### Identifying the Sources of Legitimacy of the Humanitarian Negotiator

The importance given by a counterpart to a negotiation process relates not so much to the object of the negotiation per se but rather to the legitimacy of a humanitarian negotiator and his/her organization in the eyes of that party. Fostering legitimacy refers in this sense to nurturing the appreciation of the counterpart concerning:

**tion** as well as its track record in similar contexts;

- c) The relevance of the **objectives of the humanitarian negotiation** in the particular situation, the responsiveness of the agency to the needs of the population, and the support the agency garners from all the stakeholders.

Humanitarian negotiation is first and foremost about cultivating relationships with parties who can impact upon the welfare of the population affected by an armed conflict.

These elements are the main building blocks of the perception of legitimacy in the eyes of the counterparts. It does not suffice to argue that because an organization is neutral and impartial it is therefore legitimate. **Such assertion needs to be examined, understood, and trusted by the counterparts under the specific circumstances.** In other

- a) **The features of the negotiator in terms of character and profile** that need to be calibrated to respond to the expectations and rationale of the counterparts;
- b) **The mission and mandate of the humanitarian organiza-**

The neutral, impartial and independent character of a humanitarian organization depends on the degree of recognition of these features by the parties to the negotiation.



words, the humanitarian nature of an organization is by essence a reputational issue.

Since this Manual focuses on the specific role of the frontline negotiator, this segment will articulate legitimacy and trust through the viewpoint of the individual negotiators rather than the ones of organizations and systems. The legitimacy of the humanitarian negotiator as well as the one of the counterpart play a critical role in the success of humanitarian negotiation. Major concessions are obtained by virtue of the personal status and skills of frontline negotiators. Conversely, misperceptions about the negotiator's status or insufficient personal skills may be critical impediments to access in some conflict environments. This point could easily undermine the confidence of many professionals in the field, as no one can feel totally assured that they have the status and personal skills required to seek access to people in need or feel certain that what they bring to the negotiation will be sufficient to guarantee the security of an operation.

The importance of the personal nature and social status of a humanitarian negotiator cannot be overestimated. Counterparts often rely on the integrity and reputation of an individual representative of a large humanitarian organization to ultimately decide on the scope of access to populations in need.

The most important skill a negotiator needs to have is to be able to understand the sources of legitimacy required in a particular context and adapt one's personal profile as much as possible to that context. The point here is not to construct a misleading identity but rather to understand that some aspects of one's identity and status may be more or less conducive to building a relationship in a specific context. It is about modifying one's communication style more than shaping a new identity. And it is about listening to expectations and resistance from the counterparts, even if there are questions regarding personal characteristics, and being ready to adjust the personal and organizational profile in the context up to the

point of finding a substitute person for a particularly sensitive negotiation.

In practice, there are five sources to the legitimacy of the negotiator :

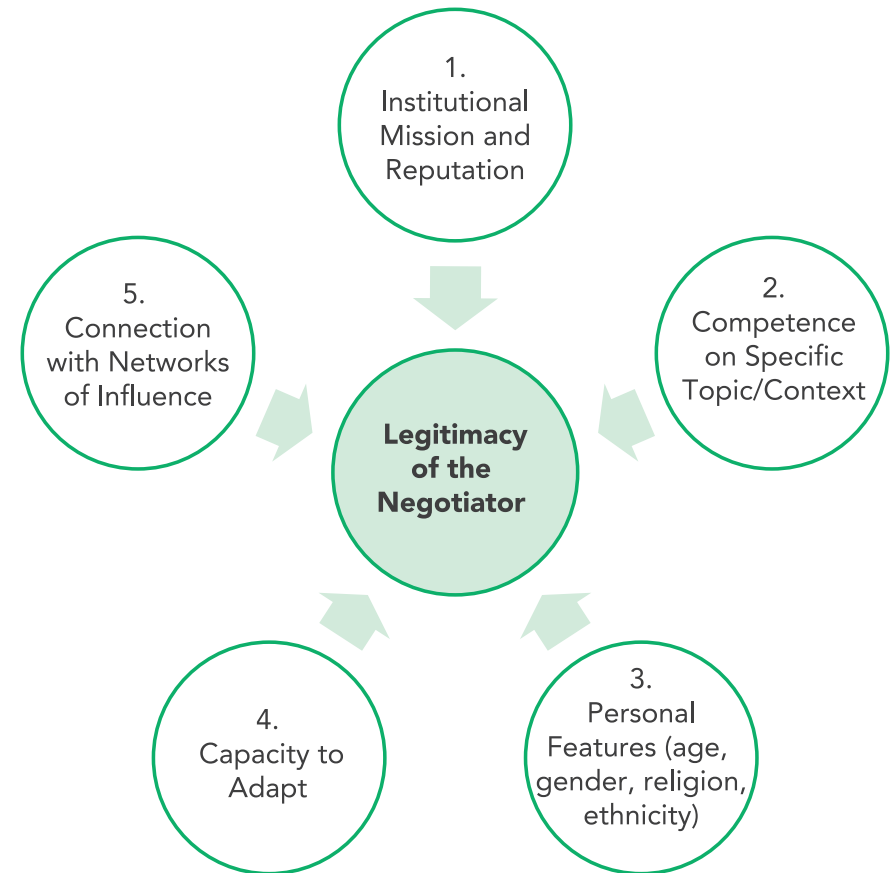


Figure 4: Sources of legitimacy of the negotiator

### **1. Institutional Representation : Where is the negotiator coming from ?**

This first source derives from the institutional mission and reputation of the organization, attributed to the negotiator through the personal assignment s/he was given by the organization. The authority of the negotiator's mandate is often expressed by the title of the position or other features of the organization (number of staff, office size, official vehicles, etc.). The negotiator's assignment to negotiate must be distinguished from the overall mandate of the organization to implement international standards and programs. While both provide for an authority to act, the negotiator's mandate is limited to the negotiation and is included in the institutional mandate.

### **2. Topic/Contextual Expertise : What is the negotiator's know-how in/on the par- ticular context/theme ?**

The second source of legitimacy is based on the professional competence and technical expertise of the negotiator regarding a certain context or topic. It encompasses the information and knowledge the negotiator has about the issue at stake, enabling him/her to bring added technical value to the discussion.

### **3. Personal Legitimacy : Who is the negotiator ?**

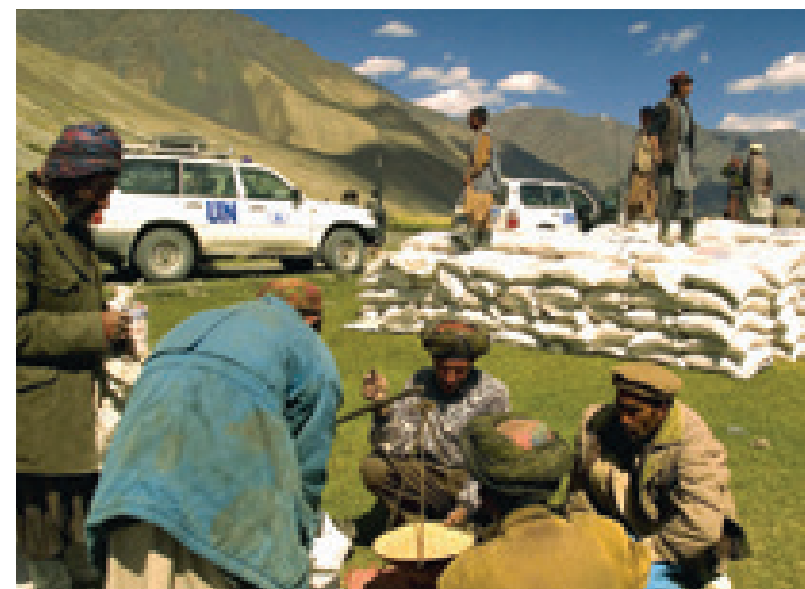
The third source of legitimacy is about the negotiator's personal characteristics, including gender, age, marital status, ethnicity, religion, self-confidence, charisma, self-awareness, etc. The personal features are important attributes to be emphasized as necessary.

### **4. Adaptability : How can the negotiator adapt to new situations ?**

The fourth source of legitimacy has been identified by practitioners as a critical skill in humanitarian negotiations. It refers to the negotiator's capacity to connect with his/her counterparts by demonstrating empathy and by being able to adapt his/her behavior regardless of the counterpart or the situation. The humanitarian negotiator must remain neutral in the situation while adapting as appropriate and being present in the conversation, even in fast-changing and challenging circumstances.

### **5. Network Connections : Who does the negotiator know ?**

The last source of legitimacy refers to the negotiator's ability to connect and refer to networks of influence over the parties to the negotiation. It engages his/her capacity to speak to the right people within the environment of the counterpart. If the negotiator develops the appropriate connections, his/her legitimacy will increase in the eyes of the counterpart.





## Balancing the Sources of Legitimacy

Not all sources of legitimacy are of equal value in all circumstances. Understanding the five sources of legitimacy will help to identify the relative value of each source in a given situation. This model can be used within the negotiator's team to reflect on how one can increase his/her authority and legitimacy in order to create a trustful relationship with the counterpart and enhance the chances of success of the negotiation. This model can also be used to identify the most appropriate team member to be designated as a negotiator.

A negotiator should map out his/her individual characteristics with the support of objectively critical colleagues and set the terms of that profile in a given negotiation. He/she could then identify the **most vs. the least conducive characteristics** and opt to emphasize the positive characteristics while keeping the least conducive ones away from the conversation.

For example :

In a highly normative negotiation with a traditional and suspicious community leader :

- a) Legitimacy is derived mostly from sources that can mitigate the risk of disruption from an unknown external organization, e.g.:
  - Personal features (more advanced age, social and marital status, established religion, gender);
  - Proven ability to adapt (lowering the risk of social embarrassment and confusion);
  - Connection with networks of influence (that can vet your abilities and integrity).
- b) Legitimacy is derived least from sources that can increase the risk of disruption, e.g.:
  - Institutional mission and reputation (the more normative the mission, the more disruptive the mandate will be perceived);
  - Competence on topic and context (the more scientific the approach, the more disruptive the competence may become).



Therefore, a frontline negotiator dealing with a counterpart from a traditional environment should emphasize the following sources of legitimacy :

- Age, family status, family experience if appropriate;
- Diversity of field experiences;
- Personal networks with scholars and community leaders in the region.

The negotiator should avoid :

- Talking about the legal basis of the organization's mandate in international law and detailing the history of the organization from its inception onward;
- Citing, for example, the number of Nobel Prizes the organization received; or,
- Mentioning his/her Ph.D. on a subject seemingly related to the context (e.g., Social Anthropology or History of the Region).

Conversely, in a highly technical/professional environment—for example, dealing with a high-level military commander from an organized army or a director of a large hospital :

- a) Legitimacy is derived mostly from sources that can validate the expertise of the negotiator, e.g.:
  - Institutional mission and reputation (the more reputable the organization, the more recognized the mandate will be);
  - Competence on topics and context (the more scientific the approach, the more comfortable and interesting the conversation will be);
  - Personal features (showing rigor in terms of behavior and presentation);
  - Connection with networks of scholars and experts (including the location of advanced studies).



**b)** Legitimacy is derived least from sources that can show a lack of integrity in terms of professional standards, e.g.:

- Interpersonal capacity to adapt (having worked on several types of missions in several capacities may not be the main asset).

The above approaches may appear either naïve or too simplistic, but they are in service to the overall goal. The point is to make sure that, while not creating a false sense of identity, some part of your character does not unwittingly become a liability undermining your effort to build a trustful relationship in terms of:

- The organization you work with;
- Your specific competence or lack of competence in a specific domain;
- Your age, gender, religion, ethnicity;
- Your capacity to adjust and shape your profile;
- Your network.

Being aware of your assets and liabilities can help significantly in building the right profile with the counterparts and establishing a safe space for a dialogue on the frontline. Your team, especially national colleagues or those from the particular area or group, can help in discussing these aspects.

### Building Trust in the Sources of Legitimacy of the Humanitarian Negotiator

The subjective legitimacy, i.e., as perceived by the counterparts, depends on the ability of the negotiator to mobilize the firm belief of the counterpart about his/her sources of legitimacy (i.e., the humanitarian organization, the objectives of the negotiation, and personal features of the negotiator.) The counterpart's belief is a derivative of the ability of negotiators to:

#### a) Present clear messages

Clarity in the negotiator's communication is one of the pillars of trust with the counterpart. Counterparts will trust only what they can apprehend, see, and measure. Ambiguous people or organizations cannot be trusted. Clear communication entails the ability of presenting unambiguous messages based

on information from trusted sources. For example, humanitarian assessments and principles need to be "unpacked" in a negotiation process so as to become accessible and palatable to the counterparts in their respective social and political environments (See Section 1 **Green** Gathering Quality Information).

#### b) Be able to adapt one's position to the counterpart's perspective

The second pillar of trust relates to the ability of the negotiator to understand the perspective of the counterpart and adapt the position of the agency accordingly. Rigid and inflexible people or organizations can rarely be trusted. The counterparts will believe in negotiation

processes that they can affect or influence. Trustful negotiation entails both empathy (i.e., understand the perception and feelings of the other side) and creativity (i.e., the ability to reimagine one's position for the benefit of the other side). Such adaptation starts with a solid understanding of the agreed facts and convergent norms as well as an awareness of the points of divergence and disagreement between the parties to the negotiation from which one can adapt the position (See Section 1 **Green** Island of Agreement).

Predictability is one of the key assets of a negotiator as it allows the preservation of a shared space, language, and protocol of a negotiation in which both parties are trying to find a fair compromise between their competing interests.

### c) Remain predictable in shifting circumstances

The last, but not the least pillar relates to the predictability of a humanitarian negotiator. Counterparts will trust people whose behaviors or attitudes they can predict. In this context, people or organizations who change their mind, the terminology, or their priorities all the time can rarely be trusted. A trusted negotiator will know how to maintain the space and protocol of a negotiation despite divergent views on the object of the negotiation. The longer the relationship between the negotiators, the more predictable the behaviors of the parties will be, and the more confidence the parties will have in the ability of the other side to adapt their respective positions.

### Application of the tool

Hence, to foster legitimacy and build trust in a negotiation, a negotiator should be able to communicate about his/her organization, project, or personal features using the indicators of trust mentioned above.

INDICATORS OF TRUST			
	CLARITY	ADAPTABILITY	PREDICTABILITY
<b>Negotiator</b>	Ability to communicate clearly about the negotiator's identity, competence, features, and network.	Ability of the negotiator to adapt to changing circumstances and cultures.	Ability to maintain the key features and respect protocols over time.
<b>Organization</b>	Ability to communicate clear messages on the mandate, mission, and core competences.	Ability to adapt the mission to the local circumstances.	Ability to maintain the same image and characteristics across contexts and times.
<b>Objectives of the negotiation</b>	Clear communication on the objectives of the proposed activities, on the assessment of needs, standards of operations, targeted groups and services.	Demonstration of how the proposed activities respond to the circumstances and expectations of the counterparts.	Establishment of a track record of the organization in the proposed activity and its intent to maintain its commitment over time.

Table 1: Criteria of legitimacy and trust in a humanitarian negotiation

For example :

**EXAMPLE**

**Location of the health clinic in a military compound**

The internationally recognized NGO Medical Help International (MHI) has opened a primary health care clinic in the vicinity of a large IDP camp in the Southern District of Country A. The camp houses over 200,000 people, many of them in poor health after weeks of forced displacement by the military, which intends to cut the local population’s supply route and support to the armed rebels in the region.

The local army commander suspects that several militants are hiding among the IDPs and are using the MHI clinic to seek treatment after being wounded or falling sick in combat. By providing this assistance to armed rebels, he argues, MHI is providing material support to a group listed as a terrorist organization by the government of Country A.

The local commander requires you to move the MHI health clinic within the military compound adjacent to the IDP camp to ensure that no rebel can seek health care treatment from MHI. If MHI declines to move, MHI will have to close its operations in the district. There are no alternative sources of care for IDPs in the district. MHI argues that all wounded and sick have a right to seek health care under the Geneva Convention. MHI is also concerned about the possibility of illegal taxation of IDPs wishing to get access to the clinic in the military compound. Overall, MHI is concerned about the safety and security of its staff if they are associated with the military presence in the District.

You, as an MHI surgeon and former military officer with extended knowledge and connection with the community, are mandated to find a solution to this problem.

Drawing from the case above, a negotiator can apply the legitimacy grid and see how s/he can enhance trust of the local commander in the role and position of MHI.

In this case :

INDICATORS OF TRUST			
	CLARITY	ADAPTABILITY	PREDICTABILITY
<b>MHI surgeon as negotiator</b>	The MHI surgeon has received a clear mandate to negotiate with the local commander. S/he needs to find a solution that will keep access to health care for all the IDPs. Surgeons are professionals well acquainted with difficult choices. They understand the military, being themselves officers in the national army.	The MHI surgeon has extended experience working in conflict zones. S/he understands that compromises need to be made at times. S/he is ready to discuss the situation with the local commander at any time.	Medical doctors are serious and committed people. MHI surgeons are ready to look into all options in a dialogue with the local commander. They have learned to be persistent and patient in this and other contexts.
<b>MHI as an organization</b>	MHI is a global medical organization with extended experience in conflict zones. Its mission is to assist all those in need based on IHL.	MHI understands the precariousness of the security situation and is ready to adapt to the situation if it becomes unstable.	MHI has been working in similar unstable circumstances in several countries to the satisfaction of the military authorities.
<b>Objectives of the negotiation: Keep the clinic accessible to all IDPs</b>	The health care situation in the IDP camp can become quickly tragic, with severe consequences on the lives of IDPs and stability of the camp. Full access to the clinic is imperative.	MHI could consider opening an annex to the clinic within the compound so as to ensure the safety and security of some of its patients.	MHI has been taking care of war wounded as well as civilians in all circumstances based on IHL. It does not preclude access to treatment based on political affiliation. This principle of neutrality is applicable in all countries.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This segment provided specific tools to enhance the legitimacy of the organization, objectives of the negotiation, and more specifically the frontline humanitarian negotiators. It underlined the importance of building trust as a form of capital in a relationship, understanding that the test is always in the eyes of the counterpart.

In this context, frontline humanitarian negotiators should consider :

- Drawing a critical analysis of their sources of legitimacy in terms of organization, objectives of the negotiation, and themselves;
- Identifying the most appropriate member(s) of the negotiation team to conduct the negotiation based on her/his sources of legitimacy and agility to build trust;
- Ascertaining for each of these sources the degree of clarity of the messages, adaptability of the strategies and tactics, as well as predictability of behaviors and attitudes in the negotiation process;
- Unpacking notions and legal norms such as humanitarian principles to ensure that the counterparts have understood the meaning of this concept within the given context; and
- Enhancing the sources of legitimacy of the negotiators by analyzing the critical elements in the context (e.g., level of education/experience vs. mandate vs. local connection vs. adaptability vs. gender/age/religion, etc.). It is important to select the most conducive characteristics and focus on them in the communication about oneself.





## TOOL 4: DETERMINING THE TYPOLOGY OF A HUMANITARIAN NEGOTIATION

This segment is designed to assist humanitarian negotiators in determining the type of negotiation they engage in and guide them in the development of their tactics at the negotiation table.

Negotiation is a vast domain of human engagements. Above and beyond humanitarian negotiation, there are multiple types and categories of negotiation processes attached to various spheres of human activities. As with any human relationship, these categories and types of human engagement, from hostile to cooperative, from close to distant require an adaptation of the tactics used for the negotiation and the calibration of the behaviors to maximize the benefit of the engagement. It is useful to understand where humanitarian negotiation fits in the larger context of negotiation activities.

For the purpose of situating the key characteristics of humanitarian negotiation, negotiation activities can be arranged in

three general categories focusing on the relationship between the parties:

### 1. Adversarial Negotiations

(e.g., hostage negotiation, extortion, negotiation under pressure)

Adversarial negotiations are subject to a significant power relationship in which one party is attempting to obtain resources or extort concessions from another party under duress. It is a form of relationship imposed by a



strong party over a weaker party that is likely to remain utilitarian. Through this relationship, the weaker party will attempt to mitigate the damage entailed in this engagement by negotiating a compromise with the stronger party leveraging time, empathy, pragmatism and other factors of influence. The typical case of an adversarial negotiation relates to kidnapping, ransom and extortion negotiations. The goal of the negotiation for the victim of the extortion is to **end the power relationship** and return to the situation prior to the engagement. While humanitarian negotiators may engage at times in these stressful and challenging relationships to ensure the release of a colleague, for example, these are not considered as the typical humanitarian engagement.

### 2. Transactional Negotiations

(e.g., purchase of a car, sale of a service)

Transactional negotiations are the most common type of engagement in the commercial sector. Also called interest-based negotiations, transaction-

al negotiations focus on the exchange of value between two parties based on their respective interests. They assume the existence of a “market,” i.e., an actual or virtual location where temporary relationships can be created and used to facilitate the exchange of goods and services. The relationship between the parties is a means to seek the best possible terms of a deal and facilitate a transaction. Some of these transactional negotiations may be distributive, i.e., imposing a hard bargain on the counterpart (“win-lose”); others may be directed toward creating and sharing value between the parties (“win-win”) in view of the capacity of the parties to generate new value out of the transaction for both sides (e.g., contract for the production of new goods). Once the exchange has been completed, there are **limited expectations about the maintenance of a relationship** between the buyer and the seller since their interest has been satisfied, unless the parties are expecting future transactions. Humanitarian organizations regularly engage

in transactional negotiations to purchase the goods and services required for their operations in the same manner as any other organizations or private entities. Most of the tools and training available on negotiation aim at maximizing the effectiveness of transactional negotiations by emphasizing the transactional over the relational aspects of the negotiation process.

### 3. Relational Negotiations

(e.g., labor/neighborhood/family relationships)

Relational negotiations, the third type of negotiation, focus on **establishing and maintaining a relationship with the counterpart that will last over time** through the conclusion of a series of agreements (e.g., negotiating the sharing of an office space with co-workers). The agreed commitments between the parties are essentially a means to develop and further their relationship. The cost and benefit of these agreements are evaluated over time, rendering a value to the social connection and coexistence among the parties as the

main outcome of the negotiation process. Relational negotiations also imply a sense of dependency of the parties on each other, increasing the need to socialize and connect in the planning phase of the negotiation to mitigate the risk of failure.

Humanitarian negotiations with the conflict actors are essentially relational. They aim to establish primarily a relationship between the parties as a means to facilitate an open number of agreements over a time. These agreements focus on the presence of the humanitarian organization in the area under the control of the counterpart or the access to the population and the delivery of services. While humanitarian professionals can also engage in other categories of negotiation (transactional or, at times, adversarial), they tend to be more comfortable dealing with relational negotiations, which focus on shared values and social connections.

Furthermore, humanitarian negotiations do not imply an exchange of goods or services

between the parties. They consist most often of the exchange of commitments as part of the relationship between the parties to act in a particular way for the benefit of the affected population or intended beneficiaries of humanitarian assistance. For example, if an armed group agrees to the request of an organization to allow the passage of a food convoy at no cost, the direct benefit of the agree-

ment is with a third party (here, the community receiving the food). The gain of the armed group may be elsewhere (e.g., in the perception of authority or legitimacy in the eyes of the community). The dependency of the humanitarian organization on the security guarantees of counterparts to allow them to operate in the counterpart's territory over time is a key indicator of the relational nature



of the negotiation. However, if an armed group commander is seeking a personal advantage out of the arrangement in the form of money or goods in exchange for his commitment to allow the passage, the negotiation will quickly become transactional, i.e., driven by the interest of the commander at the expense of the relationship and trust between the parties. If the commander puts pressure on the truck drivers, for example through coercion, the negotiation can turn adversarial, prompting the end of the relationship and thwarting the possibilities of future interactions.

As a result, humanitarian negotiation requires specific tools and methods to build and develop social relationships in frontline environments where adversarial encounters and the use of force are the default modes of engagement. To prepare for this dynamic, humanitarian negotiators devote more resources and time at the relational stage of the process than at the transactional stage (see the Naivasha Grid in the

Introduction to the CCHN Manual). If the counterpart has a monopolistic control over the access to particular goods, services, regions, or populations, building a relationship becomes the main emphasis of the humanitarian engagement. Agreements between the parties are only derivative products of the relationship. The commander of an armed group, for example, will allow the passage of a food convoy not so much because he has an interest attached to the particular passage, but because he benefits socially and politically from the connection with the specific organization or even the individual negotiator. In the absence of a trustful relationship between the parties, another convoy may be blocked on the same road, or could even be attacked.

## Sorting the Types of Humanitarian Negotiation

Humanitarian negotiation further divides into three types of relational negotiations focusing alternatively on the sharing of values, on building consensus on methods, or agreeing on the technical arrangements entailed in a humanitarian operation. The previous module on context analysis already identified two of these types—factual vs. normative negotiations. This module recognizes that factual

negotiations are mostly technical in nature. It further inserts two subtypes of normative negotiations, the first one being political in nature, dealing with normative identity and values of the counterparts (e.g., sovereignty, religious norms, social constraints, humanitarian principles, etc.), and the second type being professional in nature, dealing with professional norms and methods recognized





by specific professional circles (such as efficiency, accountability, transparency, and all applicable professional norms attached to the activities of the organization in, for example, medical or engineering terms).

A key observation of the CCHN empirical survey is that negotiators will determine their tactics differently for these three distinct types of negotiations dealing alternatively with political vs. professional vs. technical matters. All three types of negotiation aim to establish a Common Shared Space (CSS), i.e., a spectrum of possibilities for an agreement.

These three types of negotiations aim to handle specific issues that can be summarized in the following table. Each level entails a measure of risk that needs to be managed accordingly. The more political the negotiation is (i.e., value-based), the more risks are involved in terms of reputation, perception, security, or instrumentalization. A negotiation process can start at any level (A, B, or C) and then stay on the same level all along or move from level to level.

LEVEL	TYPE OF NEGOTIATION	ISSUES AT STAKE	COMMON SHARED SPACE (CSS)	TYPE OF APPROACH	MEASURE OF RISK
<b>A</b>	Political	Identity/values/ principles/ norms  Q: <b>Who</b> are you? <b>Why</b> are you here?	Sharing values	Find the right compromise on specific shared values	HIGH
<b>B</b>	Professional	Method/standard of operations  Q: <b>How</b> will you work?	Sharing professional standards	Build consensus on method among local professionals	AVERAGE
<b>C</b>	Technical	Operational arrangements based on facts/data of the situation  Q: <b>What</b> will you do?  When/Where/With Whom will you work?	Shared understanding on the practical arrangements in terms of location, timing, resources needed, logistics, etc.	Share information and expertise on the situation and proposed methods	LOW

## Type A: Political Negotiation

Type A Political Negotiation focuses on the **identity, values, and norms of the parties**.

Assuming the presentation of a standard offer of service by a humanitarian organization, the key questions of counterparts at the start of a negotiation are:

- **WHO are you?**
- **WHY are you here?**

These negotiations are considered to be “political” as they address the external character of the intervening organization or operation in the local environment as a disruption of the

The main objective of a political negotiation on the frontline is the identification of a Common Shared Space in terms of values and minimization of the impact of the divergence of norms between the parties to allow the operation to take place with the least political risk.

established political order of the host government, group, or community.

A political negotiation generally is about the nature, identity, origins, and mission of an organization in the context of the cultural and social environment of the counterparts. As negotiators cannot change much about the identity, values, or norms of their organization (e.g., name of the organization, its logo, its mission, the composition of the team, etc.), there is limited flexibility for compromises. However, one may have some leverage deciding the way the organization will communicate externally in the local environment in order to minimize the visibility or footprint of the operation and the organization in the host community, mitigate political risks for the counterparts, and gain better acceptance.

## EXAMPLE OF A POLITICAL NEGOTIATION

### Seeking access to war widows in a conservative religious environment to survey food insecurity

The monitoring of data on food security is a technical matter that should not disturb the political order of any country. However, access to war widows may represent a very sensitive issue in conservative religious countries where women tend to be quite isolated or even secluded in their domestic environment. Widows who have lost their spouse as well as contact with other male intermediaries with relief organizations may be particularly vulnerable to food and health insecurity.

Accessing them may raise serious social and cultural concerns by the leaders of the community regarding the honor of the family and of the community, especially if this access is performed by foreigners. Contact with male monitors, foreign or local, may be forbidden by local social norms. Negotiating access to war widows may turn out to be a political negotiation in terms of seeking ways to address religious concerns while respecting the principle of impartiality, even before handling the technical aspects of the monitoring.

The main recognized tactic of a political negotiation is to find the right compromise with the counterparts on the profile of the organization and the impact of its identity and values within the community so as to maximize the benefit of its presence and activities and minimize the

political costs associated with the mission of the organization (e.g., operate in partnership with a local NGO, be accompanied by a local representative, hire local staff, withdraw logos, etc.). A prepared narrative explaining relevant aspects of the mandate and mission of the

organization in the words of the counterpart will help to develop a proper understanding of the organization with the counterpart. It should be underscored that “cutting deals” on identity (e.g., hiding the organization’s logo), norms (e.g., refraining from mentioning human rights or international humanitarian law), or values (disregarding peripheral issues such as trafficking or underage marriage in the community) may have severe consequences for the integrity and reputation of the organization. These negotiations are a source of considerable risks for the organization. The management and leadership should be consulted as the frontline negotiator considers necessary compromises within clear “red lines” (see Section 3 **RED** Institutional Policies and Red Lines.)

For these reasons, humanitarian organizations should be attentive to when a situation calls for sending a qualified “political” negotiator to discuss the profile of the organization. Professional or technical mem-

A political negotiator is someone who can understand well the political situation of the counterparts and the implications of potential deals in order to find appropriate and practical arrangements to address legitimate concerns of all those involved.

bers of a team may not be able or willing to work out necessary arrangements on the visibility or positioning of the organization, or, conversely, may go too far in compromising the values of the organization in view of the needs of the population that threaten the image and reputation of the organization.

One should be aware that “political negotiation” does not necessarily mean “high level” negotiation. All the levels of management should expect to be engaged at some point in political negotiation, i.e., dealing with the value and identity of the organization, starting with the local staff. Political

negotiation may take place at the national or local level, or even at a checkpoint—in fact, everywhere a counterpart may ask the political questions: “Who are you? Why are you here?” These questions may be satisfied by a short and acceptable explanation if the counterpart has little to lose in allowing access, or, alternatively, may be the start of a lengthy and sensitive process if the presence of the organization disturbs the political order of the host in terms of value in the local context.

Although experience in political negotiation is a definite asset, the seniority of the representative may represent a liability in some situations. One may want to mitigate the reputational risks of a political negotiation by sending a person with a lower level of responsibility to a political negotiation in order to avoid unnecessary exposure if the proposed arrangement carries some risks to the organization.

## Type B: Professional Negotiation

Type B Professional Negotiation focuses on the **methods and standards** of an organization’s operation.

The key question at the start of a professional negotiation is:

- **HOW do you intend to operate in the country/region/location?**

In a professional negotiation, the negotiator is aiming to build consensus with and among the host professionals regarding the method and standards that will be applied to the operation. The approach is to mobilize the support and guidance of this professional community in order to reach consensus in terms of method and accountability. If the professional authority or circles are weak or absent, the negotiation will quickly turn technical (see Type C, below). Professional negotiation is an important buffer between political and technical negotiations as it allows for avoiding falling into political

negotiation on value and norms each time there is a blockage at the technical level. Professional negotiation allows for the maintenance of a professional relationship with the local nurse, district health director, head of the hospital, etc., to discuss the methods of the operation with professional counterparts who can appreciate the proposed choices and plans. Professional negotiations will go on until one of the counterparts believes that the discussion has become too technical and specific (i.e., to be dealt with by the technical authorities), or, conversely, too political by engaging value and identity issues (i.e., to be dealt with by political authorities).

As with political negotiation, the operational standards and methods of the organization may be misunderstood (e.g., vaccination protocols, assessment and monitoring methods, accounting and financial standards, etc.) and entails risks if these methods are not in line with local practices. As compared to political negotiation, the point is not about finding the right compromise, which may be unsuitable to the professional character of the organization, but rather building a new consensus around the professional norms of the organization or finding ways to accommodate both the local and institutional norms.

The main objective of a professional negotiation is the identification of shared operating standards and minimization of the impact of the divergent professional norms between the humanitarian organization and the professionals operating in the context.

## EXAMPLE OF A PROFESSIONAL NEGOTIATION

### The provision of surgical kits to local physicians operating in remote locations

Medical Help International (MHI) plans to provide surgical kits to local physicians treating displaced persons suffering from crocodile bites and other serious injuries in the forest of Country A. These professional kits contain surgical tools that require detailed training and specific skills to limit the health risks of the procedures for the patients.

Several of the local physicians have had only limited training in surgery since very few anesthetics are available in these remote locations. While MHI is ready to send some qualified surgeons to the affected area, the demand for proper surgical training surpasses the capacity of MHI. MHI considers it unethical to provide surgical kits to physicians who have not been properly trained to undertake surgical interventions. It is considering suspending its program in Country A as it represents a major professional and reputational risk to the medical organization.

The National Health Authority of Country A does not require specialized training for general surgical interventions in remote areas due to the lack of professional capabilities and the scarcity of anesthetics. It expects MHI to distribute the surgical kits urgently needed by the local physicians in view of the skyrocketing morbidity and mortality in the region due to a surge of displaced persons wounded by crocodile attacks.

In the example described above, a medical professional aware of the importance of the ethical and professional standards involved could work with the National Health Authority to determine:

The main tactic of a professional negotiation is to engage with the community of professionals active locally and see how one can adapt or combine the local standards with those of the humanitarian organization. These negotiations must be conducted with the direct support of a professional member of the negotiation team so as to leverage the professional authority of the organization in finding an appropriate consensus on how the organization should operate in the specific circumstances.

- a) The appropriate content of the surgical kit;
- b) The support required in the field to use this content optimally;

- c) The possibility of providing anesthetic support through MHI staff in selected locations; and,
- d) The cost benefit of these policies on the welfare of the displaced population.

Professional negotiations represent a substantial risk for the organization in terms of its professional reputation and due diligence. A proper monitoring of these negotiations by professionals in the organization must be ensured. Yet, one should expect that professional standards in many of the conflict environments in which humanitarian organizations operate will clash with those of the organization or its country of origin. Negotiators should be ready and equipped with the right policies to address these differences in the field.

### Type C: Technical Negotiation

Type C Technical Negotiation focuses on the **technical aspects** of an operation.

The key questions of the counterparts at the start of a technical negotiation are :

- **WHAT are you planning to do?**
- **WHAT do you need?**
- **WHERE, WHEN, or WITH WHOM are you planning to operate?**

These negotiations are considered to be technical as they strictly address the logistical and practical aspects of an operation and its implementation in the field. Such negotiations are no less important than the other two types and can carry significant implications in terms of efficiency, security, and integrity of the operations. Technical negotiations deal with engagement with local actors, explaining the expectations of the organization, and focusing on the mobilization of support at the local level. The conversations tend to be factual in nature and call for the right data, evidence, and facts. The point of the conversation is to bring in the expertise of the organization in order to find an agreement on the modalities of the operation at the field level.

## EXAMPLE OF A TECHNICAL NEGOTIATION

### Negotiating a cross-line evacuation of wounded civilians from a besieged area

After days of bombardment of a besieged area, Medical Help International (MHI) has approached the parties to the conflict to evacuate 22 wounded civilians in need of urgent medical care across the frontline. Though the parties distrust each other, they recognize the mandate and professional experience of MHI in conducting such medical evacuations. All the parties to the conflict reject a proposal for a ceasefire but would agree potentially on the creation of a temporary corridor to allow the medical evacuation by MHI to take place.

The wounded civilians are located in the basement of an abandoned clinic in the center of the city. Several obstacles complicate access to the clinic. Time is of the essence to evacuate the wounded and secure safe passage across the frontline. MHI proposes a date and time window for the evacuation as well as an itinerary for its ambulance. It also plans to work with the local Red Cross-trained volunteers in carrying the wounded to the ambulances.

The main tactic of a technical negotiation is to mobilize and display the necessary knowledge, data, and expertise of the humanitarian organization to secure the consent of the parties to operate. Once the mission and professional standards of the organization have been recognized, technical negotiation can be conducted more easily

as humanitarian organizations have developed considerable expertise in operating in challenging environments.

One should be careful about delaying the outcome of the negotiation by focusing needlessly on the wrong method to be used. In the case depicted above, the besieged and besieg-

ing parties should not discuss the humanitarian character of this specific operation or try to “find the right compromise” on the profile of the ambulances (value-based issues) or be “consulted” on the professional modalities of how MHI should transport wounded civilians in an ambulance (i.e., a professional method to deal with a professional standard). These points should be (or have been) discussed at other times and probably with other counterparts than those who staffed the checkpoints and conducted hostilities on the frontlines. The technical negotiation should be limited to the terms of the operation (time, location, operational procedure, etc.), avoiding as much as possible entering or returning to political and professional aspects of the operation.

The point of a technical negotiation is not, as in the two previous models, about “finding the right compromise” on the values and visibility of the organization, or “building consensus” on the professional modalities of the evacuation, but is about agreeing on the fixed technical terms of the specific operation based on the organization’s knowledge of the topic and situation and seeking the approval of the counterparts. To be sure, these terms will need to be clarified, discussed, and adjusted so as to respond to the expectations of both parties.

## Politicizing vs. Depoliticizing a Negotiation Process

There are circumstances where the organization or the counterpart is unable or unwilling to agree to a particular demand at a particular level. Rather than breaking the negotiation, a party may opt to change the focus of the dialogue by changing the core question. A counterpart may always politicize the discussion by asking: “*By the way, tell me again, why are you here and who are you?*” Equally, the humanitarian party may want to avoid the political pitfalls of

A standard practice in negotiation tactics is the possibility of changing the type of negotiation midway into the process, either politicizing (moving the dialogue from technical to professional and to political levels of the negotiation) or depoliticizing it (moving the dialogue from political to professional and to technical levels of the negotiation).

a negotiation by asking: “*Can we focus on how we can work together and provide the necessary assistance to the population in need?*” These defensive tactics are to be expected as parties that are challenged by a negotiation will want to negotiate at the level where they have the upper hand.

Hence, humanitarian organizations tend to push the negotiation to the technical level and avoid political compromises. Government or armed groups gain more traction by politicizing the negotiation so that they can exert more influence on the discussion. Frontline negotiators should note that the opposite can be true as well. Government representatives may gain by sticking to technical issues (e.g., the allocation of travel permits) to avoid dealing with more principled issues (sustained access to the most affected population). While humanitarian organizations can deal with technical issues, they may be easily entrapped in a maze of technicalities by

Asserting the most conducive type of negotiation may become the main stake of the negotiation tactics as parties are well aware of the political, professional, or technical arguments on both sides of the negotiation. Engaging the conversation at the level where one party can exert the most influence is often the main objective of the discussion.

the counterparts, making the former unable to set the proper principled and professional terms of their operations.

In such a scenario, not all questions necessarily deserve an answer at all times, especially if the negotiator is not the right person to engage at the new level. Often, changing the topic is precisely steered by the intent to entrap the opposite party into a conversation in which the negotiator is ill equipped or ill prepared. It catches the negotiator off guard, forcing him/her into an uncomfortable position

at a new level. Also, there is no point of raising value-based arguments (e.g., claiming a humanitarian entitlement) in a political negotiation if one is unable to compromise on the profile and footprint of the organization in the context.

In the first example about access to war widows, this **political negotiation** should be undertaken by an experienced negotiator who is aware of the risks and possibilities of cutting a deal in these culturally challenging circumstances. An inexperienced nutritionist should avoid having a value-based conversation with local leaders regarding interpretations of religious norms conditioning access to the widow’s household unless he/she has the skills, cultural background, and mandate to engage on these issues for the humanitarian organization. These value-based conversations are at a *high risk* and require proper experience and guidance from the organization. Efforts should be made to depoliticize these negotiations—for example, proposing technical ways

to ensure that war widows will not be alone with a male food security monitor.

In the second example about the provision of surgical kits to remote local physicians, this **professional negotiation** focuses on building consensus with professionals of the National Health Authority on the terms of the distribution of surgical kits to physicians who may not have the necessary training to use them. This negotiation should not be done at the technical level, e.g., where a logistical officer in the field agrees to pull some surgical tools, but not others, out of the packages; or at the political level, discussing with the Governor the ethics of distributing surgical kits vs. letting people die from crocodile bites. The professional issue of the negotiation with the National Health Authority requires the involvement of a health professional since it is actually not about the credible risk of misusing the material per se, but rather is about finding the right balance between improving access to surgical

care in these extreme circumstances while minimizing the risks of local physicians injuring patients in times of emergency. The professional reputation of the humanitarian organization relies on the ability of the negotiator to find the right balance between these two goals.

Balancing the benefits and risks of new medical procedures is a recurring professional problem regarding the medical and public health standards of any country that requires a dialogue among professionals in medical circles and in the public authority to find an agreeable solution. In such cases, efforts should be made to “professionalize” the negotiation process. A dedicated health professional could be dispatched to the negotiation to analyze with the medical counterparts the right content of the surgical kits and maximize the training support of the INGO.

Finally, the third example of an evacuation of wounded persons from a besieged area is definitely a **technical negotiation**. The critical questions are about the lo-

cation of the evacuation corridor and at what times the corridor will open and close. This negotiation should not be handled as a professional conversation seeking consensus on an acceptable standard (“Let’s all agree among humanitarian and military operators when the corridor should be open or closed”), or alternatively in a political fashion (“I trust that you will keep the corridor open as long as necessary based on our shared humanitarian principles”). The window of a humanitarian corridor across a frontline is a security guarantee leaving no space for interpretation. In such cases, serious efforts should be made to depoliticize the negotiation process. The agreement must be crystal clear to all parties concerned to ensure that, outside the space and time of the corridor, ambulances will not be targeted. In this context, the best negotiator will be a narrow-focused logistician with little appetite for consensual or principled discussions.

Hence, if caught off guard by a tactical move of the counterpart attempting to change the nature of the conversation, humanitarian negotiators are not bound to answer the new, diversionary question. The negotiator can opt to suspend the dialogue and ask for time to revisit the issue with his/her colleagues to get additional expertise. In the meantime, the negotiator can offer to continue the discussion at the previous level. (For a more detailed discussion on managing the conversation, see Section 2 **Yellow** *Drawing a Common Shared Space of the Negotiation.*)





## Application of the tool

The purpose of this segment is to provide step-by-step guidance in applying the right typology of a humanitarian negotiation.

The point of departure of the method is to determine at which level of negotiation the counterpart is situated. The level of the counterpart normally prevails since the humanitarian organization is seeking acceptance and access from this counterpart. As a reminder, a negotiation can start at any of the three levels (political, professional, or technical) and then move between the three levels.

In order to illustrate this model, one may consider the following scenario:

- There is a measles outbreak in Country A. You work for a small NGO, Health for All (HfA), that specializes in vaccination campaigns and abiding by humanitarian principles. You have received money from your donor to rapidly implement a vaccination campaign for children against the measles outbreak.

As a point of departure, you conducted a context analysis in which you learn that:

- Country A was under a harsh colonial regime for several decades and the current government has become very cautious concerning the presence of foreign organizations in the country. Your donor is the former colonial power; thus there are suspicions of undercover intrusion via your INGO.
- The vaccination capabilities of the government are limited due to the lack of vaccines against measles. As a result, the government is unable to respond to the health crisis in a proper and timely manner. The National Health Authority started a vaccination program against measles some weeks ago that falls short of World Health Organization (WHO) standards in this domain.
- Due to the difficult terrain, the vaccination campaign will require several small and mobile

teams to go around to conservative rural villages across the country and involve several

dozens of local staff as well as the collaboration of local community leaders.

## STEP

### 1

## Meeting with the Minister of Health

Your first meeting is with the Minister of Health to discuss your measles vaccination campaign project.

- The Minister is unaware of the work of HfA.
- As part of the conversation, she inquires about the mission of HfA and the reasons behind the presence of HfA in the country.

These first questions are political in nature and need to be addressed as value-based issues in order to create a strong basis for the relationship. Hence, the answers to the questions **should be about**:

- What is HfA? What are its principles and mission? What has it been doing elsewhere? Etc.
- Why is HfA offering its services in Country A? What are the triggers for this offer? What are the criteria for HfA to make an offer of services? What is the added value of HfA in the country? Etc.

The answers to the political questions **should NOT be about** :

- **How** HfA intends to conduct its campaign in Country A, its priorities, etc.
- **What** HfA needs to conduct its campaign.
- **Where and when** HfA plans to start its campaign.

These points are important, but the relevant questions have not yet been formulated. It is important to build as much trust as possible by providing clear messages to the questions presented to HfA (Who are you?/Why you are here?)

At the outset, it is important to seek an agreement on the shared values of the operation :

- While the Minister of Health agrees about the importance of conducting the measles vaccination campaign and that everyone should have access to health care, she expressed her dissatisfaction with the logo of the donor government being displayed on the equipment, supplies, and cars of HfA because it is seen as contrary to the values of the country. She asked for these logos to be removed.
- She also prohibits the use of nationals of the donor country among the staff of HfA.

These are political issues about diverging values and norms between HfA and the government of Country A. HfA's negotiator will probably need to cut a deal with the Minister on some, if not all, of the logos and the use of national staff from the donor country. This is a high-risk negotiation that may have severe implications for both the host government in terms of granting access and the donor government in terms of financial support. Based on the negotiator's understanding of the context, he/she will need to consult with colleagues and the hierarchy of his/her organization to find an agreeable arrangement with the Minister of Health to

minimize the foreign profile of HfA in Country A and its connection to the former colonial power. Alternatively, the HfA negotiator may attempt to depoliticize the conversation from the outset by directing the meeting toward the professional goals and operating standards of HfA (how HfA works elsewhere) and inquiring about vaccination practices in Country A. The success of this tactical move depends on the willingness of the Minister to change the level of the conversation. At the same time, the HfA negotiator should be cognizant that by bringing in international norms of access (e.g., international health obligations of Country A or notions of humanitarian principles of HfA), he/she is actually opening a political dialogue on the values and norms of the operation that will probably result in political concessions by HfA on both the logo and the selection of staff.

#### STEP

## 2

### Moving to a Professional Negotiation

- Following an agreement with the Minister of Health on the profile of HfA, the Minister has sent you to the Director of the Health Department to further discuss your vaccination campaign project.
- The Director of Health wants to know which standards you will use to conduct the vaccination campaign.
- You explain to the Director that you are following the WHO two-drops-per-child standard regarding measles vaccination.
- The Director explains to you that the health authorities of Country A have been giving one drop per child for the last 20 years, which has been a regional standard.

This conversation is focusing on **how HfA should operate**. It is therefore a professional negotiation. The point

of this conversation is not about “cutting a deal”—for example, on the number of drops to be dispensed to children, such as agreeing on a dosage of 1.5 drops per child—nor is it to have an evidence-based argument on the impact of immunization campaigns on children where one vs. two drops are dispensed. It is about the conflict between two professional standards of practice, one sponsored by WHO and used by HfA, the other in use by public health authorities of Country A for 20 years. The attitude and perspective of the HfA negotiator regarding the other professional standard are key, regardless of the end result of the conversation.

In such a case, your approach will thus be to engage with the community of professionals of influence in Country A who are working on vaccination and to reach consensus about what professional standard to use in the specific HfA operation. You will work hard to build agreement on the method of HfA. If such agreement cannot be reached, you should work on consenting to a process to arrive at a common standard through research and peer discussion. Meanwhile, the counterpart should agree to let HfA conduct its campaign at the highest standard, “Do No Harm” (which is a minimum requirement of its donor and professional board), as it has the necessary resources to do so. The attitude of the professional negotiator will, in itself, contribute to the tolerance of the host authority for a different standard of practice and make sure that the parties agree about the “do no harm” professional principle.

STEP

3

### Moving on to a Technical Negotiation

- The Director of Health has agreed for you to proceed under the HfA standards.
- Hence, you have set up a vaccination clinic in the most affected area.
- You are meeting with the community leader to discuss the implementation of the first vaccination day.
- The community leader starts the conversation by stating that there is actually no measles outbreak in the area.

You are faced with a factual technical negotiation. The argument of the counterpart is about facts, ignoring the prevalence of measles in his/her area, not about your professional norms or values. Your solution is to bring in additional and objective evidence to demonstrate the facts based on your expertise.

A technical negotiation requires a technical dialogue. It is a privileged environment for humanitarian organizations because they are presumably experts in their domain of intervention. It also deals with facts which can often be observed (e.g., sick children). Frontline negotiators should, as much as possible, stick to facts (e.g., bring in leaflets in the local language describing the symptoms of measles, discuss with the schoolteacher the prevalence of the symptoms among pupils, etc.) rather than venture into other levels of discussion.

- Eventually, you managed to convince the community leader about the fact that there is a measles outbreak in the community and that children should be vaccinated.

- You therefore send your team for the first vaccination day in a village.
- You are about to start with the vaccinations when you realize that there are only boys queuing in the line. What happened?
- You go back to the community leader, who explains that the exposure of girls to foreigners is against local values.
- When you insist on including girls in the campaign, the community leader asks you, “By the way, who are you and why are you here?”

The Community leader is politicizing the negotiation; now it is no longer about facts of the outbreak or the campaign or methods of work, but about social norms: who has a right to access a health service?

**In such case, you have three options:**

**Option 1:** Stick to your technical negotiation: Argue that girls are affected by the epidemic and find a practical and agreeable way to get the girls vaccinated in the most pragmatic manner on that day, while preparing to go back to the National Health Authority if necessary to seek their guidance to address this problem.

**Option 2:** Move up to a professional negotiation: Suspend the vaccination program and go back to the National Authority to seek an agreement and guidance about the vaccination of girls.

**Option 3:** Move up to a political negotiation where the community leader is waiting for you. Stress to the community leader the moral and ethical grounds of vaccinating girls, seeking the support of mothers and elderly people. If necessary, bring in an HfA anthropologist to engage with the local

leader, which will probably validate his role as a political spoiler at the local level more than anything else.

As a health NGO working at a community level, HfA does not have much to gain by politicizing this issue. The HfA negotiator should therefore try to avoid engaging on cultural norms with the community leader, even if he/she has the capacity to do so. On the contrary, the negotiator should seek to maintain as much as possible the technical level where he/she has the upper hand and stick to the factual argument:

- There is a measles crisis;
- HfA has vaccines and vaccination expertise to save children;
- All children should be vaccinated to stop the epidemic;
- Let’s get to work.



## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides specific tools to assist humanitarian negotiators in identifying the right tactics in approaching a negotiation and find ways to politicize or depoliticize a humanitarian negotiation on the frontlines.

First, the negotiator will need to determine the domains of negotiation he/she is engaged in between adversarial, transactional, and relational types, depending on the importance one gives to maintaining the relationship with the counterpart over time. Negotiation processes aimed at ensuring the presence of an organization in a territory, with access to vulnerable populations and delivery of services, are typically relational as they emphasize the importance of the relationship with the counterpart over the short-term gains of a transaction.

Once this first selection is made, the negotiator should determine the type of relational negotiation he/she is engaged in, whether political, professional, or technical, starting from the questions raised by the counterpart, e.g., issues of identity and values (WHO, WHY), issues of professional standards (HOW), or issues regarding the technical arrangements of an operation (WHAT, WHEN, WHERE, WITH WHOM).

For each of these issues, the negotiator will prepare his/her narrative for a factual or normative negotiation and identify the most qualified member of the team to lead the negotiation. These steps will also determine a specific type of engagement in order to, respectively, find the right compromise on the political visibility of the organization, build consensus among professionals on standard operating procedure, or assert the organization's expertise in terms of technical arrangements. The negotiator will further try to gain an advantage at the level where s/he is the most efficient by politicizing or depoliticizing the relationship as required.



## TOOL 5: DRAWING THE PATHWAY OF A NORMATIVE NEGOTIATION

Building on the Island of Agreement in the early stage of the planning process (see Section 1 **Green Context Analysis**), the humanitarian negotiator is in a position to determine if the object of the negotiation process will entail mainly contested facts or, rather, divergent norms. This distinction has significant implications in terms of creating a pathway for a dialogue with the counterpart as the parties will engage differently regarding a negotiation on contested facts compared to a negotiation on

divergent norms. Facts can be negotiated in a straightforward manner regarding reconciling views about a given context. Norms are more complicated as they entail the core values of organizations and societies which define their identity. Norms are parts of the “DNA” of the parties to the negotiation and cannot simply be “reconciled” without the buy-in of the original constituencies. Therefore, distinguishing factual negotiation from normative negotiation is an important tactical step of the negotiation process.



As an example:

A representative of Food without Borders (FWB), an International NGO, meets with the Governor of District A. He is mandated to negotiate access to populations affected by drought in the District and to respond to a growing famine. He presents to the Governor his plans for the delivery of food to affected populations.

The Governor can alternatively:

a) Question the **factual assertion** of FWB about the lack of food (“There is no famine here”), requiring FWB to present solid evidence of food insecurity in the District; or

b) Question the **normative mandate** of FWB (“You have no right to be here”), requiring FWB to seek acceptance among local and national stakeholders about the work of FWB.

As explained in the Island of Agreement Tool, the paradox of humanitarian negotiation dictates that the Governor will need to select one of the two pathways to enter into an effective negotiation process with FWB as a disagreement on facts or norms often requires an inverted agreement on implicit norms or facts.

If the counterpart decides **to contest the facts** presented by FWB about food insecurity, the humanitarian negotiator has two threads to weave a pathway into a factual negotiation:

1. Build an argument based on convergent norms (e.g., FWB mandate and expertise, the right to receive food, etc.), which in turn will
2. Support the presentation of evidence by FWB to address the disagreement on facts.

If the counterpart decides **to diverge on norms** about the mandate of FWB or the right to deliver food, the humanitarian negotiator has again two threads to weave a pathway into a normative negotiation:

1. Build an argument based on the shared factual understanding of the parties (e.g., the prevalence of famine), which in turn will
2. Support efforts to build a consensus on the norm required to respond to the famine (e.g., FWB’s mandate and professional methods).

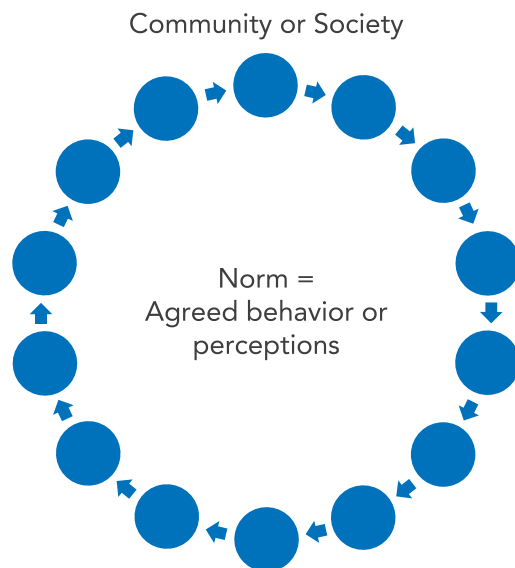
The possibility that the Governor could disagree both on facts (existence of famine) and norms (FWB’s mandate, the right to food) is a sign of the absence of grounds to negotiate. Such double negative calls for a thorough analysis of the network of influence to see potential areas of dialogue with stakeholders (see Section 2 **Yellow Network of influence**). As far as the facts are concerned, the weaving of a pathway for a dialogue on facts is described in a preceding module on *Gathering Quality Information*. The current module will focus on negotiating divergent norms.



## Negotiating Divergent Norms

Contrary to facts, which are the products of observations, norms are the products of social structures of belief developing into the values and identity of a community. What brings people together is their shared assumption that certain behaviors or perceptions are preferable to others, being moral vs. immoral in nature, legal or illegal, professional or unprofessional, etc. As seen in many communities, these shared beliefs are the outcome of social interdependencies and power

relations between members of the community. Beliefs do not need factual evidence to sustain themselves as long as they provide a framework to differentiate who is acknowledged as being part of the community and who is outside of it. Beliefs are not something to be discussed with outsiders but rather are designed to delineate the identity of the community among the insiders. In all cases, the resilience of communities is based on their ability to generate a consensus



about their current norms while addressing the evolving needs of community members.

The same applies to humanitarian negotiations which juxtapose the core values and social beliefs of the humanitarian community with the ones of the actor with whom they negotiate :

- Counterparts tend to value the preeminence of the nation-state or the survival of the group over the protection of the individual. Their belief is that relief assistance should serve the political agenda of re-establishing a national or international order.
- The members of the humanitarian community believe that the lives and dignity of all people supersede concerns for national interests and that the principles of neutrality, impartiality, and independence are paramount to the delivery of assistance.

Humanitarian principles and the predominance of military necessity, for example, are two sets of

beliefs that define the core values of their respective communities. These beliefs are not all static; some of these beliefs are regularly questioned within the community or across communities. Yet, questioning the core values and beliefs of a community puts significant pressure on the cohesion of the alternate group and the power relationships between its members.

Fortunately, the norms that allow us to function in intertwined communities are not always in conflict. Many do overlap. Yet, at times, norms, as communities, do come into conflict. Norms need to be reconciled even at the risk of allowing an escalation of tension and violence across communities. In view of the already conflictual environments in which humanitarian organizations operate, humanitarian norms are prime candidates for conflict between humanitarian imperatives and military/security necessity. Humanitarian negotiators need to be fully equipped in managing such conflict and mitigating the risks of tension.

Negotiating norms can take several shapes and also engage a number of facts.

For example :

A representative of the Committee Against Child Recruitment (CACR), an international NGO active in conflict zones, is negotiating the release of 250 vulnerable children recruited by an armed militia within the District. Under international law, children under 18 years of age should be exempt from being recruited into military service.

**Option 1 :** The local commander argues that the dramatic situation of a siege imposed on the armed group has required the mobilization of the children of the community. Although it violates critical rules of IHL, such decision was seen as imperative under the circumstances to safeguard the city.

**Option 2 :** The local commander argues that children, starting at puberty (around 12 years of age), must serve

as armed fighters as a ritual of passage to adulthood and as a duty toward their community under threats by their opponents.

The negotiation is not about the fact that children are recruited into the militia. This fact is well established on both sides. There is therefore no need to prove that children are recruited in the military. Rather, it is about the determination of the violation of an international norm and how to proceed to seek greater compliance.

**Under option 1 :** The local commander attempts to justify the mobilization of children based on the need for manpower in the militia under the circumstances (e.g., siege of the town by opponents). In such case, the argument points toward a **factual violation** of a norm under the circumstances of a siege. The use of an argument of necessity is not part of a normative negotiation per se since the humanitarian norm is not put into question, only its implementation in the specific

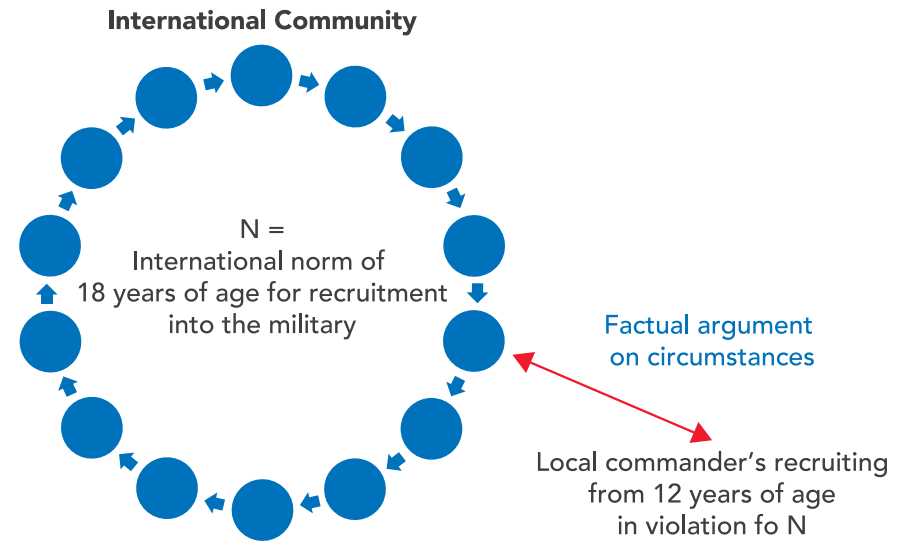


Figure 5 : Analysis of a factual violation of an international norm

case. Despite dealing with the implementation of an international norm, such negotiation becomes factual again although it refers to a normative issue which remains unchallenged. The point of the negotiation will be to determine which factual situations may justify an exception to the rule and the implications of such deviance.

**Under option 2 :** The local commander argues not so much on the military necessity of recruiting children under the circumstances but rather on the existence of an alternative local

norm of recruitment from the age of puberty. The recruitment of children appears to be in violation of the international norm (N) yet in compliance with the competing norm of a local community (N') which sees the mobilization of children starting from 12 years of age as an important patriotic duty and ritual of passage to adulthood (see Figure X). This is a typical **normative negotiation** which calls for a dialogue on how to improve the compliance to the international norm N without prompting an aggravation of the violation of the local norm N'.



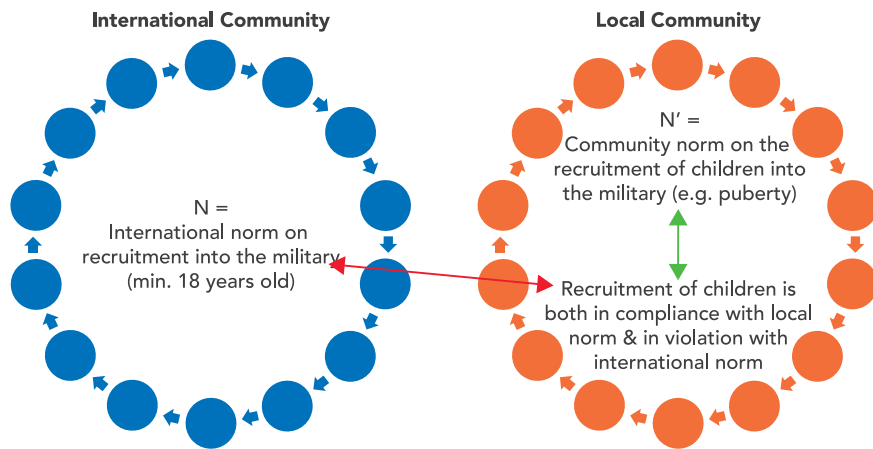


Figure 6: Illustrating a conflict of norms between the international community and a local community

For an alternative norm to exist, it requires the existence of a parallel group or society whose members believe in the legitimacy of N', in this case, the obligation of children from the age of puberty to serve in the military. This group must be composed of more than a few people who have an interest in the particular case (starting with the violators) but who represent the local community (e.g., elders, religious scholars, parliamentarians, etc.) and with whom the negotiator can have a discussion on the value of the local norms and see that the behavior of the local commander is in compliance

with the local norms. Such divergence requires the application of a normative approach to the negotiation as the two parties are not simply facing a violation of N, but an actual conflict between two different sets of beliefs (N vs. N'). A normative divergence is harder to engage with as it may touch deep beliefs of the organization or even the negotiator. It is therefore important to be able to step back a bit from one's own beliefs to understand the conflict environment in which the negotiation will take place in order to bridge the gap between the two norms in these particular circumstances.

### Application of the tool

The objective of this tool is to help frontline negotiators in approaching a normative negotiation. The point of departure of a normative negotiation is an analysis of the violation itself: Does the behavior of the counterpart actually amount to a violation of an international

norm? Was this violation justified by the counterpart as a matter of facts (exceptional circumstances) or as a matter of law (due to divergent local norms)? How can we draw a pathway in the latter situation for a greater compliance with the international norm?

#### STEP

1

### Verify the existence of an international norm:

The negotiator needs to ascertain the existence of the international norm (in this case, the international prohibition of recruiting people less than 18 years of age into combat position in the military). One should be careful to verify and substantiate the existence of an international norm as humanitarian organizations tend to attribute a normative character to rather vague policy positions promoted by their agencies (e.g., a right of humanitarian access to affected populations, immunity of humanitarian staff to local laws, prohibition to attack against legitimate targets, etc.) that have little to no substantiation in international law. In other words, the humanitarian negotiator should check if there is actually a violation of an international norm as the law is probably more conservative than the understanding of it by the humanitarian agencies. Hence, humanitarian negotiators should make sure that the norm exists and they should be able to explain it in simple and straightforward terms.

**STEP****2****Verify the existence of a violation of this international norm:**

The negotiator needs to ascertain the factual evidence of the violation before engaging in the negotiation. (What is the evidence of this practice? How recurring has this practice become? How many people are affected? What are the consequences, etc.) Dispersed and disjointed instances of recruitment by isolated commanders may not justify an intervention with the risk of prompting a negative response and the politicization of the relationship. The practice of recruitment may also take place in absence of the knowledge that it constitutes a violation of an international norm. Ignorance of the norm does not mean it is not a violation, but it does simplify the entry into a normative negotiation by explaining the existence of the international norm and seeing where the counterpart stands. For a normative negotiation to take place, the violations of the international norms should be systematic and intended, i.e., the local commanders knew about the existence of the international norm and have a policy of recruitment that runs against the norm.

**STEP****3****Verify the existence of an alternative norm:**

The counterpart may justify the deviant behavior based on the existence of an alternative local norm. The words of the counterpart are clearly not sufficient. In such case, one needs to inquire into the culture and legal norms of the community to verify if such local norm exists. It is not simply because such behavior has happened in the past that makes it "normal." In other words, what is "normal" in the local context is not based and accepted only on what the local commander tells the negotiator. The deviant behavior needs to be accompanied by the

sense that it is what community members expect from the commander in the circumstances. This expectation may be expressed directly by community leaders or in writing in terms of local laws. While such local norms (N') are in contradiction with the internationally agreed norms (N), they actually govern the behavior of the counterpart. The humanitarian negotiator will need to deal with them as such.

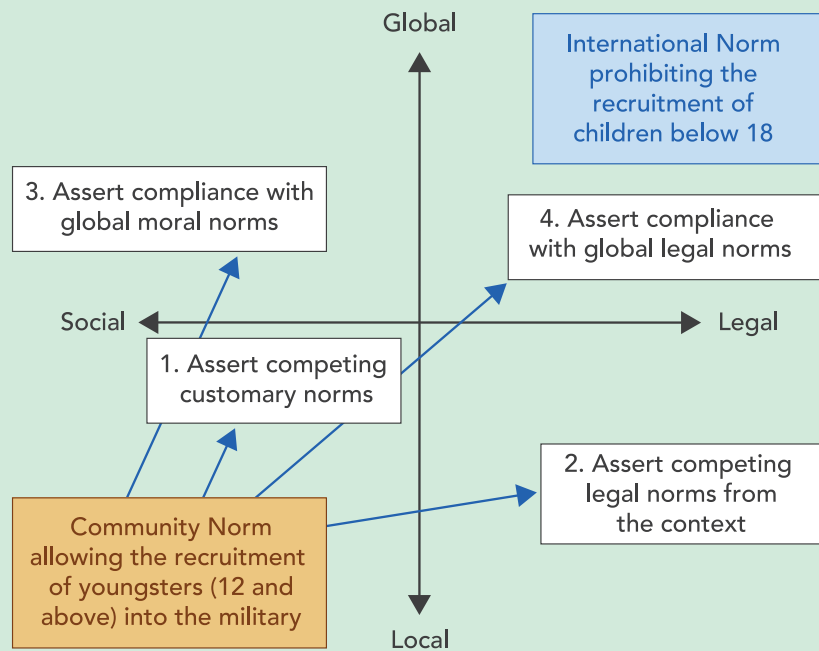
**STEP****4****Position these competing norms in a common space and draw pathways of convergence:**

One may consider mapping the normative negotiation on a two-dimensional diagram, imputing a value to the space between the positions in terms of:

**X axis:** The formal character of the norms: **Legal vs. Social**

**Y axis:** The origin of the norm as a point of contention on its legitimacy: **Global vs. Local**

The resulting graph shows the two opposite norms (color coded for the parties: blue for the humanitarian organization, brown for the local commander).



The humanitarian negotiator has a series of options to deal with a conflict of norms. One may consider:

**1. Discuss inconsistencies** of the opposite norm in its social-local context and assert competing local social norms to encourage improved compliance with the international norm. The negotiator should identify social norms that are more in line with the international norm than the ones regulating the behavior of the counterpart.

(E.g.: There are other community norms that require children to attend schools or work on farms until 16 years of age; girls should not be recruited under local customs.)

**2. Discuss contradictions** of norms in the local context but across the formal designation calling for compliance with national laws in the context.

(E.g.: There are national laws prohibiting the recruitment of children below 16. These national laws are applicable to the local context as they are the same ones providing the legitimacy and funds to the military.)

**3. Discuss the moral character** of the norm based on a universal belief regarding the welfare of children.

(E.g.: Raise concerns about the risk faced by children in the military from sexual exploitation and other abuses in view of their vulnerability, which is of global concern. Alternatively, reference global professional military norms that discourage the recruitment of children.)

4. Try to convince the counterpart to **comply with the global legal norm, recognizing that this** is probably the least likely option in terms of potential success.

(E.g.: Raise awareness about the consequences of recruiting children in terms of criminal liability in front of the International Criminal Court, for example.)

Favoring convergence using logical arguments

Alternatively, the humanitarian negotiator may focus on the internal logic of the norm of the counterpart using interpretive tools of legal arguments. Logical arguments are very much contextual and relational. The point is not to put into question the legitimacy of the local norm but rather to challenge its logic as a matter of better understanding the norm, trying to insert genuine doubts into the reasoning of the counterparts.

This engagement entails questioning the logic of the local norms compared to other values in the community using classical tools of legal interpretation. The negotiator will need to ensure the strength and legitimacy of the other values used as arguments in that particular community (vulnerability of women, strongest elements in the militia, duty of care to children):

- a. **A fortiori**: If women are exempt from recruitment because of their vulnerability, the most vulnerable children should be exempt as well.
- b. **A contrario**: If the militia is composed of the strongest elements of the community, children, as the weakest members of the society, should be exempt.
- c. **A priori**: Children are in development and depend on the care of others. They will create an unnecessary burden on the militia.

By questioning within such a framework, the negotiator may be able to bring about a change of policy as the counterpart thinks more logically about the local norm than emotionally or politically. Once the logic has been questioned, the humanitarian negotiator may present the logic of the other norms mentioned above as more solid and not so much as being superior or more legitimate. For example :

- a) Women and children are equally protected under IHL.
- b) Powerful military have all adopted the prohibition of the recruitment of children to battlefield roles below 18 years of age.
- c) National laws recognize that the place of children is in schools.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides specific tools to assist humanitarian negotiators in developing the pathway of a dialogue on factual vs. normative negotiations. It offers a series of recommendations on handling normative divergence and simple tools to develop logical arguments to facilitate a discussion on the articulation of the opposite norm. It also aims to raise awareness that not all violations of international norms are the result of normative divergences. The individual belief that the circumstances exempt the counterpart from complying with the law is not per se a divergence of the norm, but rather a problem of factual implementation. Circumstances are a matter of facts calling for a factual negotiation, i.e., building evidence to convince the counterpart to change its policy. It is recommended to avoid treating such violation as a divergence of the norm in the absence of a community of belief behind the behavior of the counterpart.

Normative negotiations are sensitive processes as they put the core values of the humanitarian organization on the line. Humanitarian negotiators should not shy away from a normative negotiation as the negotiation may be dealing with a genuine conflict of norms. It is therefore important that the humanitarian negotiator undertakes a proper analysis of the situation ensuring :

- The existence of a genuine conflict of norms between the parties to the negotiation;
- A common understanding on the facts of the situation which are not contested;
- A solid understanding of the social character of the conflicting norm and of the community that sustains it;
- A mapping of competing local and legal norms as well as the design of logical arguments to better understand the possible pathways of engagement.

# Module C: Transaction



## INTRODUCTION

The transactional stage consists of the final step in the process focusing on negotiating the actual **terms of the agreement** between the parties. It is the point at which the Common Shared Space (CSS) takes the shape of a definite series of reciprocal commitments (e.g., the provision of assistance under agreed-upon conditions) allowing the humanitarian

organization to operate with the consent of the counterparts.

Transactions often take the shape of a bilateral or multi-lateral agreement between the parties concerned with the issue. The agreement can have several forms: oral statements, written contract, memorandum of understanding (MoU), exchange of letters, handshakes, etc., and

have various levels of exposure (confidential encounter vs. public documents). At the core of any agreement, one can find an exchange of reciprocal commitments producing a mutually beneficial arrangement as the main reward of the negotiation process for the parties involved. This agreement may govern the presence of the humanitarian organization, its access to the population in need, and the terms of the deployment of its activities. The commitments may also encompass security guarantees, delivery schedules, modalities of visits, landing rights, etc. In exchange, organizations may agree to the terms of the counterparts regarding location of the office, scope of activities, visibility, the selection of the targeted groups, methods of distribution, role of local authorities, among other things. The process may also involve further discussions on the orientation of humanitarian operations requested by the counterparts in terms of operational priority throughout the duration; cooperation with other organizations, ministries, security, and police forces; etc.

## Regarding the type of transaction

Accordingly, the transactional stage of a humanitarian negotiation can take various forms that tend to reflect the types of negotiation :

1. **Factual transactions** often focus on the technical aspects of an operation, determining when and where the activity will take place, and what it will entail, such as the scheduling of a vaccination program in a district, in exchange for the cooperation of the local authority in the field and compliance with their instructions.
2. **Normative transactions** emphasize issues of methods and professional standards detailing why an operation should take place and how, i.e., under which standards the terms of the operations will be developed (e.g., methods of monitoring, hiring policies, etc.), in exchange for recognition of the political role and legal responsibilities of the counterparts.



In both cases, a negotiation process ends with an exchange of commitments to act in a certain manner for the other side's benefit (granting access, providing relief aid, changing a policy toward beneficiaries, etc.), raising a number of questions and, at times, concerns about the sustainability and equity of such agreement.

The mutual character of humanitarian transactions has always been treated with a degree of uneasiness and apprehension by humanitarian agencies. Besides providing essential goods and services to the people in need, who most of the time are not part of the discussion, the transaction legitimizes the control of the counterparts over the access to the affected populations which has inevitable political implications. There is a constant tension between the norms of neutral, impartial, and independent access and the reality of accessing the population in need under the control of the counterpart. In practice, access always entails a form of compromise on humanitarian principles so as

to maximize the impact of the activities of the organization.

The transactional stage is clearly an important phase of the negotiation process as it tests the preparation for and planning of the negotiation over a period of time. The purpose of this segment is to help prepare frontline negotiators for this critical stage, with the understanding that they are not alone in this transaction. In fact, this transaction is informed by their tactical deliberations and specific objectives allocated to the negotiation process under the mandate of the organization, as well as by discussions about scenarios and bottom line (see Figure 7 Naivasha Grid), both of which will be explored in Section 2 **Yellow**).

This segment will focus on preparing the stage of the transaction as a result of the process presented so far in the **CCHN Field Manual**. It will focus primarily on :

- A. Creating a conducive environment for the transaction;
- B. Clarifying the terms of the transaction; and
- C. Addressing the human elements of the transaction.

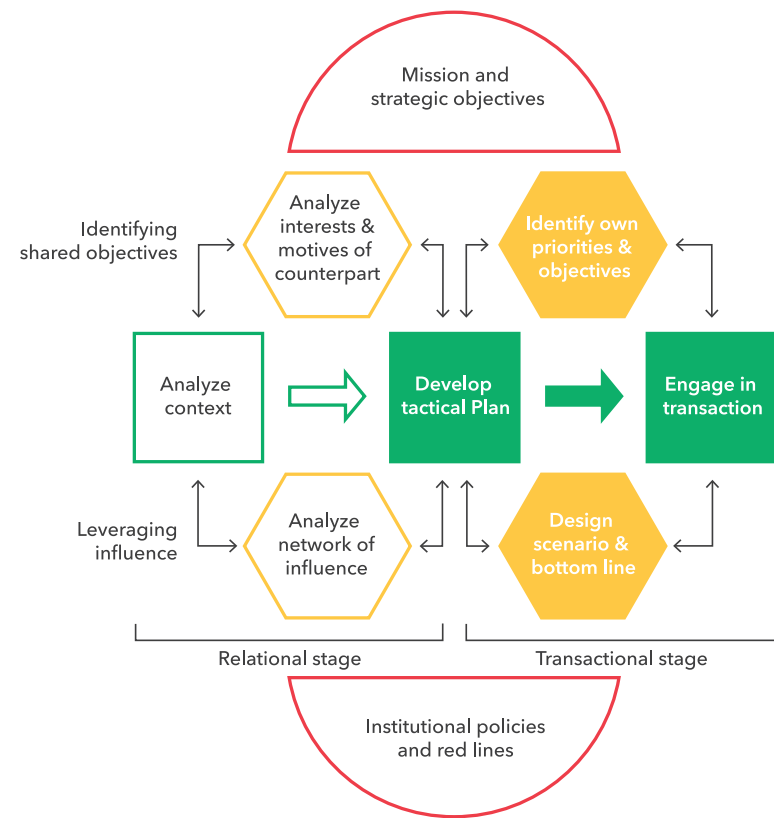


Figure 7 : Informing the transactional stage of a negotiation process within the Naivasha Grid



## TOOL 6: CREATING A CONDUCTIVE ENVIRONMENT FOR A TRANSACTION

The transactional stage of the process with the counterpart is a critical moment of the negotiation given the investment of the parties in assessing the situation, analyzing the interests of the parties, and leveraging the networks of influence. The transactional stage is when and where parties will collaborate to agree on the proposed terms of the exchange and determine their readiness to accept the costs and risks of the transaction. As mentioned above, each transaction entails costs and benefits for both parties. Inevitably, most of the material benefits of a humanitarian operation concern a third party (the affected population) that is rarely included in the negotiation process. Because of the absence of input from the third party and the nature of the negotiation transaction, the delivery of assistance is therefore not a direct outcome of what transpires between the parties at the negotiation table. The issues taken up are more about

the distribution of costs and benefits entailed **in the making of the humanitarian operation** (e.g., presence, visibility, physical access, logistics, security of the operation) than the outcome of the operation (e.g., food reaching the population in need.)

Experienced frontline negotiators acknowledge that, while there are generally two parties sitting at the negotiation table, there are multiple stakeholders who may exercise control over the topics at issue before reaching agreement. These include:

- The direct mandator of the negotiators on both sides;
- The operational hierarchy on both sides;
- The legal and policy hierarchies within the humanitarian organization;
- Political hierarchies, including donors;

- Conservative forces on both sides who see agreements with the counterpart as a threat to their interests and power within the respective organization or group;
- The political stakeholders within the affected population who may jeopardize the implementation of an agreement;
- Other humanitarian organizations and interagency coordination structures who may be dissatisfied with the terms of the agreement or the role of the humanitarian organization in its implementation; and,
- Political authorities—local, national, or international—who may disagree with the terms of the agreement.

There will surely be a lot of people “breathing down the necks” of the negotiators at the negotiation table. In negotiation terms, their respective interests are the important drivers of the transaction. It is therefore vital

that the humanitarian negotiator work diligently in preparing the transactional phase of the negotiation through deliberate and extended consultation with stakeholders. A negotiator may opt to seek inputs in the terms of the proposed agreement so as to bolster ownership, depending on the actors and the circumstances. The point is not to seek everyone’s support at the transactional stage, but to be transparent about the efforts of the organization and the proposed terms of the agreement in order to prevent any surprise.

While the benefits of the transaction are often quite clear for the respective parties, accepting the cost of a transaction always comes at a risk for the negotiator and for the organization he/she represents as they entail compromising or putting at risk a valued asset of the organization or some of its stakeholders (e.g., security of staff, integrity of delivery chain, institutional reputation, control over the assistance to the population, security presence, etc.). To retain some control over their program

and manage risks, humanitarian organizations tend to “bundle” elements at the negotiation table. For example:

- Presence in a context may entail campaigning for the rights of the affected population;
- Access to IDP camps may entail collecting data about IHL and human rights violations;
- Monitoring the delivery of assistance may entail making lists of beneficiaries and collecting population data;
- Safety and security arrangements may entail the presence of former military and intelligence officers from donor countries.

Some of these elements may, in turn, come at a high cost for the counterparts or some of their stakeholders. To mitigate these risks, counterparts may also try to underline, rephrase, or obscure some aspects of the transaction so as to minimize the burden of the agreement on their side. e.g.:

- Crossing a checkpoint may involve checking the cargo despite an immunity from inspection;
- Selection of local staff may require some vetting by internal security forces;
- Providing rations of food to families may entail some redistribution or diversion of food to members of the militia when the organization leaves the camp.

In other words, the exchanges at the negotiation table tend to have several levels and layers to manage both the relationship between the parties and the expectation of the respective constituencies and mandators on the outcomes of the agreement.

The details of the transaction are often left at the discretion of the negotiators, who, based on their experience and interests, will ensure the proper elaboration of the agreement while minimizing the risks involved by avoiding being too explicit or too implicit on some of

the terms. The vagueness can quickly turn into a liability at the implementation phase (see the next tool on Clarifying the Terms of the Agreement). The art of the negotiation relies on the ability of the negotiator

to strike the right balance in specifying the necessary terms of the agreement for successful implementation, while leaving aside the most contentious aspects with limited significance in terms of operation.





## Application of the tool

The collaboration in the drafting of the terms of an agreement very much depends on the relationship established between the parties before the transactional phase. In the preparatory phase, the negotiator may want to create a conducive environment for the discussion by:

- **Preparing for the meeting(s) carefully**, selecting in advance the issues to be discussed, as well as building on areas of convergence in the agenda.
- **Engaging with key internal stakeholders in advance on the terms of the proposed agreement** and ascertaining the power structure of the humanitarian negotiator's own organization.
- **Understanding the power structure of the counterparts and their stakeholders** and the potential personal and institutional liabilities they may carry, and assessing the risks entailed around the various terms of the proposed exchanges (see above).
- **Approaching the transaction as an opportunity for dialogue rather than a moment of resolution and arbitrage.** Since the decision of the counterpart may well be made at a later stage, prepare and set an agenda for the meeting to support a dialogue in order to explore options rather than reach a final agreement. The agenda should identify the issues, propose a path for the discussion, and set a clear process for moving forward into implementation.

Predictability and the ability to manage expectations are by far the best factors in determining the likelihood of success in contentious negotiations as they allow parties and stakeholders to understand and forecast where their counterpart stands. Changing one's position on a central issue unexpectedly at the negotiation table can have significant detrimental impacts on the relationship and negotiation process, even if the change favors the interests of the counterpart. The point of frontline negotiation is more about maintaining and developing relationships than seeking specific outcomes.

- **Determining the Common Shared Space**, i.e., points of flexibility vs. the red lines, and try to build an argument clarifying both to serve as a framework to discuss the terms of the agreement.

- **Focusing primarily on the people involved** (at the desk, in the room, outside the room), assessing their relationship in terms of authority and influence, and identifying those who are diverting attention from the ones who are deciders. Knowing who will be present beforehand can be helpful in planning the meeting.
- **Establishing trust with the counterparts from the outset.** The less improvised and more predictable the transactional meeting will be, the more confidence it will generate.
- **Listening carefully to the counterparts and taking their points into account explicitly** in the elaboration of the proposed terms of the exchange even if at first it may be difficult or counterintuitive to integrate some of these points. Be aware of your body language in this particular moment; physical expressions, postures, and gestures can easily betray opposing feelings and discourage a dialogue.

- Letting the counterparts take the initiative to find a coherent set of steps and explain their views or reservations on the proposed terms of the agreement. Co-ownership about the results of the meeting is more important than the results themselves. The terms of the agreement can always be amended. A lack of ownership is hard to fix.
- Actively perceiving, which is more important than actively persuading. Make a list of the points made by the other side, making sure that you understand them from their perspective.
- Finding ways to bring up options rather than solutions for particular problems in order to facilitate a dialogue on the pros and cons of each option (e.g., reviewing and comparing access by road vs. access by rivers or by air, etc.).
- Being transparent about your red lines when some of these options are unlikely to be agreed on in order to try to avoid raising the wrong expectations. Do not hesitate to postpone a discussion on a difficult term to focus instead on agreeable issues and then revisit the knotty points later if they are still relevant.
- Seeking to create shared value before trying to claim benefits from the proposed terms (e.g., avoid stating: “We need immediate access to save lives! It is your moral and legal obligation to allow us to access the people in need”). Rather, emphasize the Common Shared Space (CSS) identified earlier and seek the views of the counterparts on proposed arrangements (“We want to address together the food crisis that is raising concerns on all sides”).

- Always formulating, at the end of the meeting, a set of steps to move the discussion or the operation forward as part of a clear and ongoing action plan that integrates the agreed terms of the exchange so far, and sharing the contact information for people involved in the implementation of the agreement.
  - Thanking the counterparts for their attention and consideration, emphasizing the mutual benefit of the conversation, even if it does not end in an agreement.
- These points can be summarized in an easy-to-use checklist:



**CHECKLIST TO PREPARE, CONDUCT, AND DEBRIEF A TRANSACTION MEETING**

**Preparing for the meeting**

- Do I understand the stakes for all the parties?
- Who will be the people participating in the meeting?
- Where will they come from?
- What information do I have about them?
- What do the counterparts know about me? Is this information conducive to a positive meeting?
- What should I expect from the discussion?
- What are the points of convergence/divergence between the parties?
- Did I prepare an agenda for the meeting?
- Did I share this agenda?
- Did I consider the physical setting for the meeting?
- Did I consider specific timing (early/late in day) or other cultural elements?
- Did I prepare, brief, and rehearse with my translator (if there is one)?
- Did I prepare a short and a long version of my presentation in case the meeting is not as long as expected?
- Did I prepare facts/evidence and eventually bring supporting reports/analysis?
- Do I know the protocol?

**Proposed terms of the agreement**

- What are the proposed terms of our operation?
- What are the movable pieces/options (bottom lines) in terms of time, geography, priority, standards?
- What are the points of no flexibility/red lines around these options?
- Can I construct an argument around flexible vs. non-flexible points?
- Can I formulate benefits for the counterparts?
- Do I have an action plan ready?

**CHECKLIST TO PREPARE, CONDUCT, AND DEBRIEF A TRANSACTION MEETING**

**Power structure of counterparts**

- Who is in charge on the other side?
- Who will the negotiators report to?
- What flexibility will they have?
- How do they perceive our own power relationships (internal and external to our organization)?
- What are the expected limits imposed by external powers on the meeting?
- Will negotiating on a particular issue impact the power relationships? If so, how?

**At the meeting**

- Who is in the room?
- Who is talking?
- Who are the deciders?
- Who are the diverters?

**List of the points of the counterparts**

- Can we list the points made by the counterparts?
- Do we understand these points?
- Were we available to discuss these points on their own terms?
- How was my/our body language in this situation?

**Common shared objectives**

- Can we describe our institutional objectives as common shared objectives?
- Are we able to insert any convergence of norms, facts, or objectives in our position?
- Were we able to raise options to be discussed when confronted with resistance on the proposed terms of the exchange?

**Agreeing on next steps**

- Are we able to present clear next steps to move forward?
- What are the agreed results of the meeting?

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides specific tools to assist humanitarian negotiators in building a conducive environment for their transactions. This environment depends on a number of factors, both internal to the negotiation and external in terms of stakeholders. It provides a short checklist to ensure that key factors are taken into account. Inevitably, the conducive character of a transaction environment is a subjective manner. The purpose of the tool is to raise the negotiator's awareness on a few practical steps to increase the assurance of the negotiator that he/she has done all feasible measures to enhance the chance of success of the transaction.





## TOOL 7: CLARIFYING THE TERMS OF THE TRANSACTION

This tool focuses on the terms of the agreement between the parties to the negotiation, moving our attention from the relationship with the counterpart to the product of the negotiation and its implementation. Proper contextualization of the agreement is essential to ensure its realization in complex environments, ascertaining from the outset possible obstacles that would make some of the commitments difficult or impossible to apply, comply with, or enforce. Clarity of language is of particular assistance to ensure a common interpretation of the commitments of the parties to the negotiation.

While the degree of formality of an agreement may carry significant political value in the short term, it primarily addresses potential future disagreements on interpretation of the commitments of the parties. In case of diverging views at the implementation stage of the agreement, a written text will offer better support than an oral arrangement to find a way forward.

The success of a negotiation process depends on both the meeting of interest between the parties and the **feasibility of the terms of the agreement in their implementation**. This practical dimension may be of great importance for the organization but may also come at a cost for the negotiators of both parties as “the devil often lies in the details.” At times, negotiators may share a common interest in leaving ambiguities in the terms of the

agreement to ensure the success of the negotiation and pass on the risks of misunderstandings to the implementors of the agreement. It is important therefore to be cognizant of the interests of the parties in both reaching

and implementing an agreement while minimizing pressure on the implementors to find practical solutions. For example:

On the feasibility of an agreement at the field level:

### EXAMPLE

#### Political Pressure on Government to Open Prisons to International Monitors

The federal government of Country A is under increasing pressure by third-party state sponsors to open its prisons to the visits of international monitors due to allegations of ill treatment. Prisons are in the hands of provincial authorities who have little to gain by exposing illegal practices in their region. The federal Minister of the Interior signs an agreement in the presence of high-level representatives of the International Monitoring Network (IMN), an internationally recognized monitoring group, for complete access to all the prisons. Nevertheless, IMN monitors are unable to launch their program of visits due to technical difficulties at the field level. While the negotiation is deemed a success, the federal structure of the government and the lack of control over the prison system from the central government have hindered the implementation of the agreement. The federal government attributes the difficulties to the local authorities and may procrastinate on the implementation of the agreement, a possibility that should be weighed against the desire of the negotiators to reach an agreement at the transactional stage.

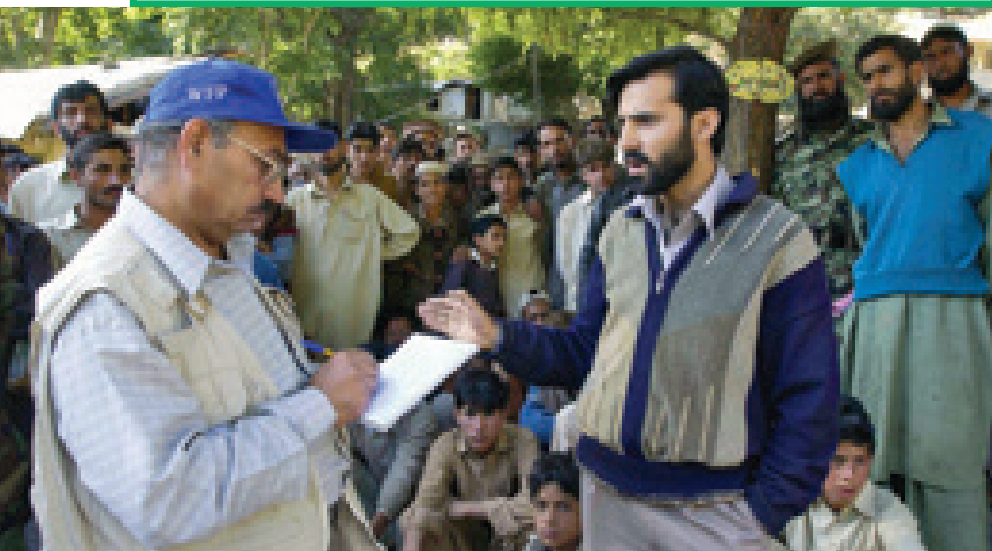


On the importance of including and consulting with implementors :

### EXAMPLE

#### Health Crisis in Remote Locations

A cholera epidemic is spreading rapidly among displaced populations dispersed in the marshes of a remote district of Country A. Health for All (HfA), an international medical NGO, has agreed with the Minister of Health of Country A to provide all the necessary vaccines to the clinics of the affected district over the next two weeks. To maintain cold chain (temperature-controlled refrigeration) requirements, HfA plans to use air delivery to carry its vaccines to the region. However, with the approaching rainy season, it is unlikely that the landing strip will be available to receive the air delivery with fixed-wing aircraft, raising the cost of air delivery due to the necessity of using helicopters. HfA does not have the budget to charter helicopters. Reaching an agreement on air delivery is therefore of minimal use if air logisticians and administrative planners of the NGO are not part of the negotiation to draw the parameters of a feasible arrangement.



On the importance of assessing the social and developmental impact of an agreement :

### EXAMPLE

#### Non-state Armed Group Committing to Refrain from Recruiting Children among Displaced Populations

The Committee Against Child Recruitment (CACR), an international NGO, is negotiating the demobilization of combatants aged less than 18 years old in a remote district of Country A. It organized a public event in a regional capital for the signing of a commitment by the armed group active in the district in exchange for which the families of demobilized children will receive educational material for their children. While the media coverage on the agreed commitments enhanced the role and international profile of CACR in the fight against child recruitment and contributed to the public image of the armed group, many of the concerned children in the affected district—in particular, girls—were opposed to their demobilization, arguing that they felt safer with the armed group compared to living in destitute and chaotic internally displaced persons (IDP) camps where abuses are rampant. The demobilization program failed, and parents complained that there is no school for their children in the IDP camps.

The pressure on CACR to collect commitments for demobilization of children superseded an understanding of the social and developmental implications of such activity on the community in this district, about which CACR has little expertise. The mandate of the negotiator may have been misconstrued to focus only on the commitments of demobilization, and not necessarily on the implications of the demobilization on the concerned individuals and their families.

As mentioned at the beginning of this tool, the quality of a negotiated agreement resides primarily in the clarity of the terms and its resilience in the implementation phase despite changing circumstances. A quality agreement provides for a clear set of responsibilities and common standards and objectives, as well as a joint procedure to ensure proper implementation of the agreement, thereby establishing a framework for the humanitarian operation.

In principle, the terms of an agreement are properly set when:

1. They **are clearly expressed** in a way and in language that both sides can understand and relate to;
2. They **define plainly the expected roles and tasks of the parties** in addressing the object of the negotiation as required by the circumstances;

3. They **recognize the reciprocal and interdependent character of the commitments**, in particular, the sequential mechanics of these tasks (i.e., the order in which these tasks should proceed and the conditional nature of particular tasks);

4. They **set up a process to handle potential divergence of views** on the implementation of the agreement so as to preserve the spirit of the agreement and support its implementation despite changing circumstances; and,

5. They **recognize the intrinsic power relationship between the parties** so as to calibrate the respective levels of responsibility in the process of implementation.

### Application of the Tool

These criteria are by no means objective standards for the success of a transaction. Instead, they provide a series of measures which negotiators can use to assess their proposed terms of exchange for a transaction and to improve the resilience of the final agreement.

For example:

#### EXAMPLE

##### Negotiating Access to an IDP Camp under the Control of an Armed Militia

Food Without Borders (FWB), an international NGO, is seeking access to an IDP camp controlled by an armed militia under the supervision of the state military in Country A. FWB has been negotiating its access to the camp for several weeks with the leadership of the armed militia as well as the military commander in the capital overseeing its activities in the region. In recent days, it appears that the parties (FWB, militia commander, military representative in the capital) are ready to plan a convoy of trucks carrying FWB assistance to the IDPs in the camp. Representatives of the parties sit down at a meeting in the capital. What should the proposed terms of the transaction be?

Here is a proposed table to examine the application of the criteria :

CRITERIA	PROPER TERMS
<b>1. Express parties' commitments clearly</b>	<p>FWB's proposed terms to include :</p> <ul style="list-style-type: none"> <li>- The number of trucks</li> <li>- The description of the cargo</li> <li>- The schedule of movement</li> <li>- The predefined routes</li> <li>- The profiles and names of drivers</li> <li>- Detailed modalities of distribution</li> <li>- Defined target population</li> </ul> <p><u>In exchange for :</u></p> <p>Armed militia's and military's commitment to :</p> <ul style="list-style-type: none"> <li>- Stipulate route and time of access on a map of the territory under their control</li> <li>- Guarantee the safe passage and security of staff</li> <li>- Specify modalities of crossing checkpoints manned by the militia</li> <li>- Refrain from interference</li> <li>- Detail responsible parties in the field (names and phone numbers)</li> </ul>

CRITERIA	PROPER TERMS		
<b>2. Define the roles and tasks of the parties</b>  <b>3. Recognize their connection as required by the circumstances</b>	<p>Counterparts orchestrate their interactions based on the circumstances</p> <table border="1"> <tr> <td> <p><b>FWB will :</b></p> <ol style="list-style-type: none"> <li><b>1.</b> Send a notification on the number of trucks, cargo, dates, and route on Day 1</li> <li><b>3.</b> FWB will confirm day and time of the convoy with the local commander on T - 1 day</li> <li><b>5.</b> On the morning of the convoy, the lead driver calls the local commander and announces the entry of the convoy into territory and confirms route</li> <li><b>7.</b> Convoy crosses checkpoints and proceeds to deliver assistance</li> <li><b>9.</b> Convoy leaves the camp through the same route or as otherwise agreed with the local commander</li> </ol> </td> <td> <p><b>Military/militia will :</b></p> <ol style="list-style-type: none"> <li><b>2.</b> Receive notification, share information in the field, and provide authorization within four days</li> <li><b>4.</b> The local commander will confirm within 3 hours that convoy can proceed</li> <li><b>6.</b> The local commander informs checkpoints</li> <li><b>8.</b> The local commander is present at the delivery site and observes without interference</li> </ol> </td> </tr> </table>	<p><b>FWB will :</b></p> <ol style="list-style-type: none"> <li><b>1.</b> Send a notification on the number of trucks, cargo, dates, and route on Day 1</li> <li><b>3.</b> FWB will confirm day and time of the convoy with the local commander on T - 1 day</li> <li><b>5.</b> On the morning of the convoy, the lead driver calls the local commander and announces the entry of the convoy into territory and confirms route</li> <li><b>7.</b> Convoy crosses checkpoints and proceeds to deliver assistance</li> <li><b>9.</b> Convoy leaves the camp through the same route or as otherwise agreed with the local commander</li> </ol>	<p><b>Military/militia will :</b></p> <ol style="list-style-type: none"> <li><b>2.</b> Receive notification, share information in the field, and provide authorization within four days</li> <li><b>4.</b> The local commander will confirm within 3 hours that convoy can proceed</li> <li><b>6.</b> The local commander informs checkpoints</li> <li><b>8.</b> The local commander is present at the delivery site and observes without interference</li> </ol>
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<p><b>4. Set a process to handle potential divergence</b></p> <p><b>The parties agree :</b></p> <ul style="list-style-type: none"> <li>- On a direct communication link with people of authority in case of divergence during the operation;</li> <li>- On a practical process of resolution under the circumstances to ensure a) the safety of FWB staff, and b) the implementation of the operation; and,</li> <li>- In case of continued divergence, to suspend the operation without further escalation or reprisals and convene a meeting to discuss the situation and possible solutions.</li> </ul>			



CRITERIA	PROPER TERMS
<b>5. Recognize the power relationship in the field and the relevant degree of responsibility</b>	<p><b>Military and armed militias agree :</b></p> <ul style="list-style-type: none"> <li>- To guarantee the safety and security of the operation throughout the period;</li> <li>- To ensure that every member of the militia operating along the route of the convoy will be aware of this operation and of the authorization of FWB to operate without interference; and,</li> <li>- To take full responsibility in case of a security incident involving the militia or other parties.</li> </ul> <p><b>FWB agrees :</b></p> <ul style="list-style-type: none"> <li>- To ensure the strict neutral and impartial character of its delivery of assistance; and,</li> <li>- To ensure that its staff and contracted drivers will not engage in activities unrelated to the transport and distribution of humanitarian aid.</li> </ul>

For experienced negotiators, the examples mentioned above may appear simplistic or too formalistic. Yet, the point is to draw the attention of all negotiators to the importance of a set of clearly assigned and synchronized tasks and responsibilities among the

parties at the core of the transactions. While the parties may want to avoid further tensions in the negotiation, a minimum of predictability is essential to the implementation of the agreement, especially in tense and evolving circumstances.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This segment provides a list of straightforward criteria to ensure the clarity of the transaction and the feasibility of the implementation. It considers the risks associated with a successful negotiation without a proper implementation plan due to the fact that negotiators on both sides may have created or maintained ambiguities in the terms of the agreement as a way of transferring the risk of misunderstandings to the implementors in the field. Rather than forcing all the complicated points to be addressed in the negotiated agreement, it recommends the setting up of a process of handling misunderstandings and discrepancies of interpretation during the implementation phase of the agreement as these are unavoidable and should be addressed resolutely, especially in complex and fragmented conflict environments.

Overall, humanitarian negotiators should always remain cognizant that the power relationship between the parties will remain a key driver of the implementation phase. The agreement tends to put both sides on an equal footing. Humanitarian negotiators should be attentive to opportunities to integrate mitigation measures into their implementation tactics in case the counterparts decide to unreasonably complicate the implementation of the agreement. The negotiator must always remember that these negotiations take place in a conflict environment. The counterpart will try to maintain a dominant position over the operations of humanitarian organizations in the area as, in its view, a sound strategy as both a war tactic and political posturing. Humanitarian organizations should expect that sooner or later this conflict between the parties over power dominance will shift despite their agreement and its spirit of collaboration. Nevertheless, the dispute does not prevent the humanitarian negotiators from seeking renegotiation of the agreement or the clarification of the implementation framework.



## TOOL 8: ADDRESSING THE HUMAN ELEMENTS OF THE TRANSACTION

The transactional stage of a negotiation is an environment where by default considerable pressure is being applied on the parties. Frustration over the conflict situation or the competing interests of the parties is often expressed. The human dimensions of the transactional stage cannot be overstated and can easily derail a meeting, but if managed properly they remain secondary to the outcome of the negotiation. Addressing these elements aims to contain the emotions of the parties in check in order to keep the negotiation on track.

In this context, the negotiator needs to be able to “read” the situation in its human, cultural, and social contexts, and be able to adapt his/her attitude accordingly. The goal is to de-escalate tensions and contribute to a positive experience in the room. The capacity to read a situation and respond proactively to the counterparts’ behavior is an important skill for negotiators. While expressing a sense of frustration,

or even being outraged, in some situations can be beneficial to the discussion, the humanitarian negotiator should be strategic and intentional in when and how he/she expresses these feelings. Such displeasure may be conveyed only if the negotiator also has the capacity to de-escalate the resulting tension and bring back a positive outlook in the dialogue.

Similarly, it is important to distinguish assertive behavior, which may help to communicate a position using strongly worded reasoning while being respectful of the other side’s views, from aggressive behavior, which aims to impose a position over the views of the other side by leveraging an emotion (pride, anger, sadness, pity) or through disrespectful acts or words. Both need to be read in their cultural context, as the perception of the receiver is the determinant. In cross-cultural contexts, a benign act of humor or familiarity, for example, can be read as particularly aggressive and disrespectful.

### Assertiveness may be useful to project:

- The mission and objectives of the organization;
- The norms and expected results of an operation;

- An awareness about the seriousness of the situation;
- A sense of commitment and seriousness from the organization.

For example:

### EXAMPLE

#### Sexual exploitation of unaccompanied minors in a transit camp for migrants

The statement of the negotiator of Defence of Children, an international NGO, at the negotiation table with refugee camp authorities goes as follows:

“We, Defence of Children, are particularly concerned with the situation of the unaccompanied children in the camp. We believe that it is part of your responsibility as the authority of the camp to ensure the protection of these vulnerable children, especially in view of their lack of access to education opportunities. We understand that with the latest new arrivals, it may be difficult to monitor their situation. Yet, their welfare should be a priority in these tragic circumstances. We have observed several cases of sexual abuse and trafficking that we reported to your attention a few weeks ago. This situation is well below applicable standards and something needs to be done about it urgently. At the demand of some of our donors, we are here to discuss the situation and see how we can be of assistance in finding practical solutions for these children and avoiding further abuses.”

In this context, assertiveness is not about denouncing, imposing, or rejecting a position. Rather, it aims to build on the authority and responsibility of the counterparts, recognizing their efforts and respecting their social position on which you wish to build an intervention.

### Aggressiveness may undermine your position because:

- It imposes values, objectives, norms, and identity through emotional leverage;
- The frame of emotional leverage may include anger,

sarcasm, humor, fear, threats, guilt, etc.;

- It would hijack efforts of empathy to build a common understanding;
- It can be interpreted as a lack of control over an issue, which implies that the negotiator is not confident or does not have a real authority;
- It is essentially disrespectful and is likely to trigger escalation;
- It will negatively impact the long-term and trust relationship.

For example, aggressiveness in the same context as above:

### EXAMPLE

#### The statement of the negotiator of Defence of Children at the negotiation table with refugee camp authorities goes as follows:

“The situation is utterly unacceptable. We, at Defence of Children, have been shocked to hear horrendous stories around child prostitution in the camp where helpless children as young as 8 years old are repeatedly raped by older men from within the camp. Your unwillingness to address this issue by refusing to create protected areas with proper access to education is intolerable. We are deeply concerned by the situation and discussions are taking place at HQ and with the Foreign Office to address these ongoing violations of basic human rights of children in your country. With the arrival of new children in the camp, we cannot allow such a chaotic situation to continue. We will develop a proper response to protect the children immediately. We expect the authority of the camp to give us full access and provide us with the required assistance.”

Both statements are describing the same situation. While the first one attempts to carry a strong but rational message, the second one attempts to leverage anger, guilt, and fear more than reasoning with the counterpart. Depending on the power relationship between the parties to the negotiation, an aggressive stand by the weaker party is most likely to generate an escalation from the dominant side, as aggressiveness will

be interpreted as a challenge to the power dynamic, even before one considers the issues at hand. Conversely, aggressiveness by the dominant side is an expression of power and frustration in the relationship. Even if it does not trigger an escalation, it will undoubtedly undermine the trust that the counterpart may have in the common understanding of the situation. In such case, the only option is to seek a de-escalation.



## Application of the Tool

The purpose of bringing the human element into the preparation is to focus on finding the right calibration of emotion vs. rational arguments around the negotiation table. This segment focuses particularly on how to de-escalate tensions with the counterpart when he/she has loaded the negotiation with emotions to the

point of paralyzing the process. De-escalation is a matter of managing negative emotion and re-establishing a rational framework to engage in the discussion. There are several successive steps to de-escalate tensions in a meeting.

For example :

### EXAMPLE

#### Meeting with the military commander of a detention camp on allegations of ill treatment of detainees

Surprised by some of the allegations of ill treatment presented by the representatives of the International Monitoring Network (IMN), the Commander of the Military Camp detaining suspected terrorist elements argues vehemently:

- “These allegations are utter lies.”
- “No one should believe these killers.”
- “These are not humans, they have decapitated women and children in the villages.”
- “How can anyone provide them any credibility unless they support terrorists?”
- “Foreigners have no idea of what the population has endured in the hands of these monsters.”
- “This is the time to show who is in charge and who is on the top.”
- “And you, foreigners, cannot do anything about it.”

Here is a series of suggested steps to address such escalatory behavior :

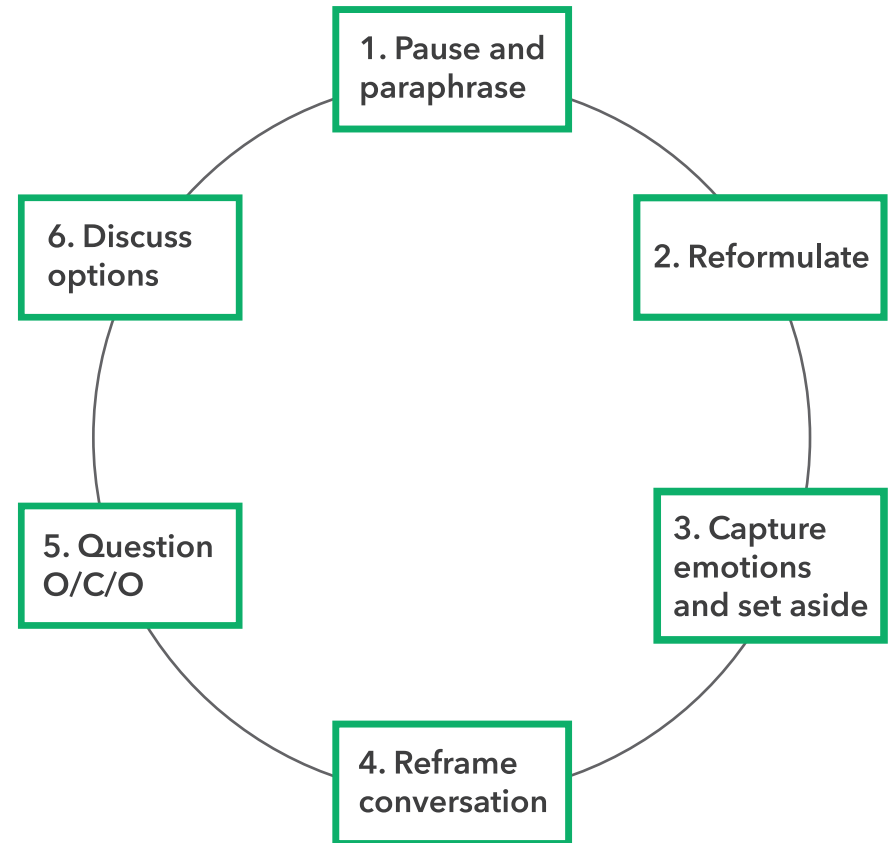


Figure 8 : Model inspired by the work of ADN Group, l'agence des négociations, Paris

**STEP****1**

## Initiate a pause in the conversation and acknowledge the emotion but do not get emotionally involved

It is important to recapture some control over the conversation. Escalation is driven by an intent of the counterpart to increase the tension as a tool to frame the exchange within the counterpart's emotion with the expectation of an escalated response in return. By pausing the conversation (up to 7 seconds, depending on culture), the weaker/aggressed party has a chance to easily disarm an escalation process as a method and start to address the emotion.

Aggressiveness is made of emotion. Aggressively charged escalation is directed toward the emotional receptors of the other side. It is important to respond verbally to this emotion, to acknowledge it using words rather than non-verbal language (e.g., being upset, annoyed, fearful, dismissive, etc.), and start a process of de-escalation.

In the case mentioned above, the humanitarian negotiator could say:

"I hear you."

"I hear your suspicions."

"Indeed, I have heard about the violence in the villages."

Etc.

The point is not to participate in the emotional diatribe, but to acknowledge the fact that emotion has been

used to express a message. One should be careful not to say, "I understand your position, your situation." An emotion is not something one can "understand," it can only be "felt." The purpose of an aggressive statement is to make the other side "feel" the emotion. If the party who is the object of the aggressiveness (in this instance, the representatives of the IMN) uses the word "understand," they may fail to de-escalate the conversation and instead provoke a higher level of aggressiveness aimed at making their side actually "feel" the emotion. The negotiator needs to stay quite neutral and avoid getting involved in the emotional statement of the aggressor. "I hear you" helps to de-escalate the tension by acknowledging the emotion without getting involved with it. On the other hand, if the emotion were positive and in line with the position of the participants on the receiving end of the emotional charge—for example, if the Camp Commander had expressed outrage when confronted by the allegations of ill treatment—the humanitarian negotiators could afford to connect with this emotion and say that they understand his reaction.

**STEP****2**

## Reformulate the emotional statement so you can address the core issue

The next step is about extracting the issue from the emotion and bringing the counterpart into a space of dialogue and ultimately into a process of de-escalation.

In the case mentioned above, one could say:

- "We can be easily misinformed if we do not have access to all the information. Am I right?"
- "We come from quite a distance, so we may need time to understand what is going on. Am I right?"

- “We need to find ways to prevent all these abuses in the village. Would you agree?”

The point is to replace the tactic of escalation with a tactic of connivance, which aims to define a space of agreement on some factual aspects mentioned above and substitute straightforward, commonsense reasoning for the emotion. Adding a question will help to get the acquiescence of the counterpart, who may remain emotional but may well be interested to see where this is going.

**STEP**

**3**

### Capture the emotion to put it aside

The next step is about sidelining the emotion as one opens an avenue to a new dialogue and to a potential collaboration.

In the case mentioned above, one could say:

“I can see that you are suspicious of what we bring you. We need to find a way of addressing these issues and working together. We are not here to cause trouble, but to work out solutions.”

**STEP**

**4**

### Reframe the conversation

The next step is to reframe the conversation without the emotion, offering the counterpart the opportunity to express his/her concerns in a pragmatic manner.

In the case mentioned above, one could say:

“How can we work together in ensuring that the information we bring you is of quality and relevance? We are here to work with the authority in improving the treatment of the detainees. Can we find ways of addressing together some of the points we raised?”

**STEP**

**5**

### Present a series of open/close/open questions

The next step is to let the counterpart identify options as a scale of possibilities to relaunch the conversation through a sequence of open/close/open questions. The answers to these questions are not yet options to be negotiated, but rather options to help rationalize the issues from the perspective of the counterpart, away from the original emotion.

In the case mentioned above, one could say:

**Open question:** How would you suggest that we address this risk of misinformation?

In what ways can we build trust in our work?

Answer: “I suggest Options A, B, C, D, etc.”

**Closed question:** Are there any other possibilities?

Answer: No (If Yes, go to open question again: Which ones?)

**Open question:** “In case of option “C,” how would you like to proceed?”

“In case of option “D,” how would you imagine we should proceed?”

Answer: “In this or that manner”

**STEP****6****Set the terms of the discussion around one or several of these proposals**

As a final step of the de-escalation process, one may reset the terms of the dialogue around the most amenable aspects of the proposed options so the dialogue can be launched on a new, unemotional, basis.

Depending on the cultural environment, one may refrain from apologizing for his/her position or positions taken earlier in the de-escalation process as it rewards the use of emotion in the negotiation. Apologies may be due, but they should be part of a normal dialogue if they are not an object of the exchange.

**CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL**

This segment provides a straightforward tool to calibrate the human elements of the negotiation. In particular, it recognizes that emotions can easily turn into liabilities at the negotiation table if these are not properly managed and transmitted. The segment provides a distinction between assertiveness and aggressiveness. It further offers a protocol to de-escalate tensions into a meeting with clear steps as “emergency measures” if the emotion in a conversation spins out of control. Without being formulaic, the negotiator should be ready to use them as a sequence or focus on specific steps. The point is to encapsulate the emotion of the counterpart and find a way of bringing the meeting back on productive grounds.





## 2 | The negotiator's support team



## Role and tasks of the negotiator's support team



# Introduction

## OBJECTIVE OF THIS SECTION

The objective of this section is to provide a framework for the colleagues of the frontline negotiator to assist and support the development of the negotiation strategies and tactics.

Frontline negotiation is understood across the humanitarian community as a relational undertaking involving the humanitarian negotiator and his/her counterpart(s) in a search for common grounds to ensure the provision of essential assistance and protection to populations in need. The relational character of this activity is seen by practitioners as a core element in building trust between individuals and organizations in situations of armed conflict and violence. Building on their personal connection, negotiators on both sides are able to identify their shared interests to drive the negotiation process forward.

One side effect of this personalization of the relationship is that decisions on the orienta-

Humanitarian negotiations are team-based, comprising the frontline negotiator who leads the engagement with the counterpart, the negotiation support team who assist in the critical reflection on the orientation of the process, and the mandator who frames the process into the institutional policies and values.

tion of the negotiation process are often made primarily by those negotiators involved at a personal level. Humanitarian negotiations can easily turn into private dealings if the process is not integrated into a professional and critical endeavour, as the scope of interests and the stakes at play are usually much larger and more far-reaching than the ones envisaged by the individuals in their relationships. The larger picture may have considerable implications in terms of the lives and dignity of thousands of people, as well as the

reputation, safety, and security of a whole organization.

While the personal, contextual, and confidential character of frontline humanitarian negotiation remain central elements of the success of a negotiation process, these initiatives should be framed by the values and policies of the organizations and the required supervision of the hierarchy in order to ensure the proper support and endorsement by the organization. Between these two poles—providing the required autonomy to the lead negotiator and the necessity to frame the negotiation process in the policies of the organization—lies the role of the support team who act together with the negotiator to build the trust into a team effort rather than a solo practice. These roles, as presented in this section, are designed not to infringe upon the autonomy of the humanitarian negotiator but rather to enrich his/her planning process through a critical deliberation with the members of the negotiation team and their hierarchy. The frontline negoti-

ator is part of the team, and the tasks described in this section are shared with the other members of the team. In practice, the team is composed of professionals who can play various alternative roles (frontline negotiator, member of the support team, and mandator) in separate and simultaneous processes in a given context. This distribution of roles reduces the risk of the negotiator who lacks sufficient distance from the situation wanting to reach an agreement at all costs. It might also facilitate acceptance and implementation of the agreement internally by generating ownership of the process among members of the team who will then have to implement the agreement.

The team-effort model is an effective way for solo practitioners to maintain their autonomy as frontline negotiators while making a responsible and professional decision to open a critical collaborative space around them in the planning process of the

negotiation. The deliberation within the support team aims to ensure the maintenance of the required critical space to define and regularly review the objectives of the negotiation process and inform the design of the tactical plan (see Figure 1).

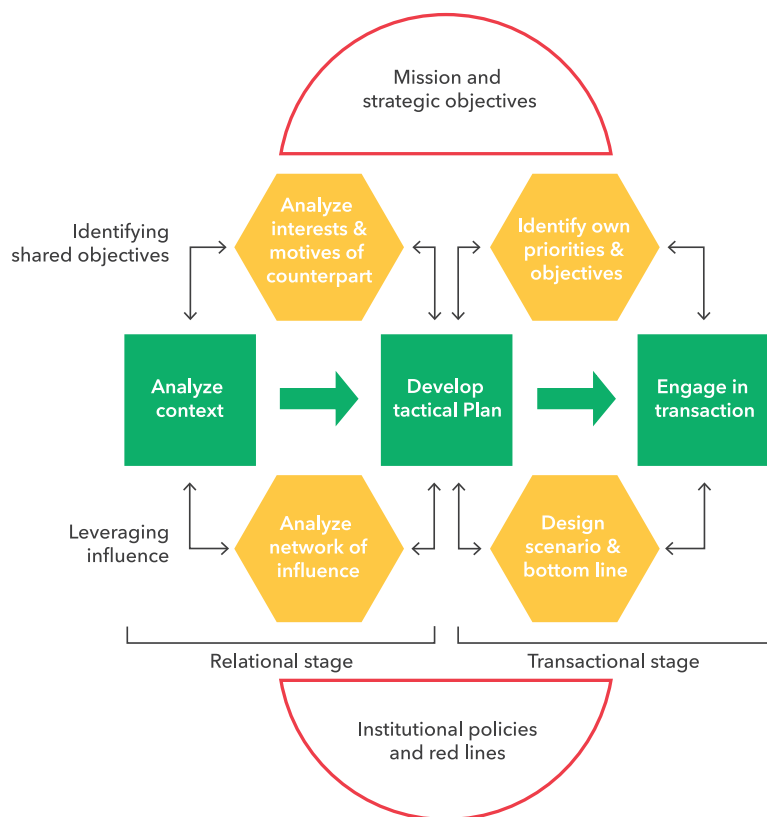


Figure 1 : Naivasha Grid : Informing the development of the tactical plan of the negotiation

These deliberations primarily engage the humanitarian negotiator who is responsible for driving the negotiation process (Section 1 **Green**) and team members and peers who are close to him/her. The due diligence process among professionals involves sharing their views on critical orientations where emotion, frustration, and stress can play a detrimental role. This practice also provides an assurance to the mandator—that tactical choices are made deliberately, i.e., with consideration of different options and perspectives.

This section will examine successively a proposed set of tools to:

1. Analyze the position, reasoning, and values of the counterpart regarding the object of the negotiation;
2. Identify specific priorities and objectives of the negotiation process;
3. Design scenarios, bottom lines, and red lines to frame the negotiation process; and
4. Assess the network of actors who may influence the position of the counterparts.

These practical tools should serve as background elements to guide internal discussions between the frontline negotiators and the negotiation team.

# Module A: Analysis of Interests and Motives

## INTRODUCTION

The purpose of this module is to analyze the underlining reasoning and motives of the counterpart that may explain the position of the parties in a negotiation process. This analysis builds on the

assessment of the political, social, and humanitarian context.

The analysis of the position of the counterpart(s), as well as the understandings and perceptions

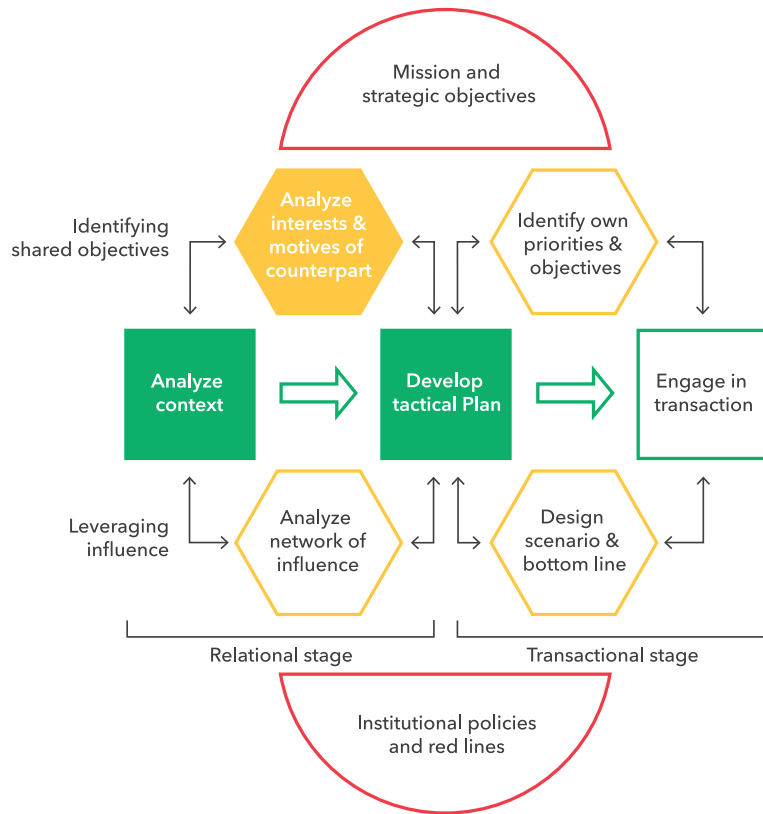


Figure 2: The interests and motives analysis informs both the context analysis and the development of the tactical plan

of the constituency of the counterparts, will inform the development of the position of the humanitarian organization and facilitate the design of the tactical plan by its negotiation team (see the next module, *Module B: Identifying Your Own Priorities and Objectives*). They will help to identify points of convergence and divergence between the positions

of the parties related to a specific negotiation. This assessment will further inform the type of negotiation to be envisaged—whether political, professional, or technical in nature—and the selection of the skills required—conciliation skills, consensus-building skills, or specific technical abilities (see Section 1 *Green Tactical Plan & Typology of a Negotiation*).

## TOOL 9: ANALYZING THE POSITION OF THE COUNTERPART

A negotiation process entails from the outset various points of convergence and divergence between the parties—some may be explicit, others may be more implicit. To prepare for the negotiation process, the humanitarian negotiator should draw his/her tactical plan on a solid understanding of the position and perspective of the counterpart on the given issue and in a given context. This preliminary assessment aims to understand the framing of the position of the counterpart in a holistic and non-judgmental manner. The goal is to avoid focusing too

early on the points of divergence and try to elucidate the counterpart's inner reasoning and inner motives, especially in terms of loss, fear, and grievances, as these elements are major drivers of positions in frontline negotiations.

Based on the information gathered in the course of the context analysis, the main questions are therefore :

- 1. WHAT is the position of the counterpart** (explicit or implicit) on the particular issue(s)? What does the other side want and under what terms?

**2. HOW did the counterpart get to that position** (i.e., what is the logic/reasoning explaining the position)? How is this reasoning presented in the context of the negotiation through the use of logical articulations (e.g., *a priori/a fortiori/a contrario*), recurring professional reasoning (e.g., *legality, accountability, national security*), or using military codes (e.g., *military necessity, proportionality*)? Is there a consensus around this reasoning?

**3. 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-rooted needs of the counterpart covered (e.g., *security, recognition, sovereignty, etc.*)?

The starting position of a counterpart is generally based on a logical reasoning that reflects their tactical interests and a set

of intrinsic values and norms that are at the core of their identity. The discussions at the negotiation table tend to evolve between these levels.

Here are some examples to illustrate the levels of the discussion.

**What does the counterpart want?**

In response to a request from Health for All (HfA), an international NGO, to open a clinic in Country A, the Minister of Health communicated the Ministry’s starting position that HfA needs to obtain a license from it to operate the clinic.

**How did the counterpart get to this position?**

- Based mostly on logical reasoning (**a fortiori**):
- The Minister of Health requires HfA to obtain a license from the Ministry before it starts operating in the country, as HfA would do in their country of origin.
- Based mostly on legal/professional reasoning:



- A license to operate in Country A is required under national law applicable to all medical NGOs. The reason for the license is to ensure the respect of professional medical standards in Country A. Failure to comply may generate legal liabilities for HfA and its representatives.

**Why does the counterpart take such a position?**

- Based mostly on value-driven motives:
- The Minister of Health orders the representatives of Health for All to respect the national sovereignty of Country A by subjecting all international NGOs to the law of the land. Failure to comply with

licensing requirements will be considered an unacceptable intrusion by HfA into the internal affairs of Country A.

Depending on the assessment of the roots of the position, the negotiation team will consider driving the negotiation as a technical, professional, or political process, which will dictate the type of negotiation to be conducted and tactics to be used (see Section 1 **Green Typology of a Negotiation**). The negotiation team may also consider politicizing or depoliticizing the negotiation process depending on the strengths and weaknesses of the organization’s own position and influence at each of these levels.

## Analyzing the position, reasoning, and motives of the counterpart

To achieve the objective of systematizing the analysis of the counterpart's position vis-à-vis their reasoning and motives, one may use the widely accepted tool referred to as the "Iceberg" (see Graph 1).

The first step of this analysis is to ascertain or **take note of the position** of the counterpart (**WHAT is the position of the counterpart?**):

– In normal circumstances, the analysis begins with recognition of the starting position of the counterpart on the issue of the negotiation. This position is communicated from the outset of the

negotiation process to humanitarian negotiators directly or indirectly, explicitly or implicitly, depending on the context, situation, and culture. At first, the position may not be very clear due to poor communication. Also, the agent transmitting the position may not carry much authority, due to, for example, having only a weak or dubious connection with the decision makers. Finally, the timing, location, or format of the communication may appear to be confusing or odd, raising questions about the authoritativeness of the communication, i.e., to what extent this communication represents the position of the counterpart or not. The context analysis step further informs this process and helps to identify the position of the counterpart. A minimum of clarity and authority must be recognized before moving forward with the analysis (see the three-pronged test in the next module, *Module B: Identifying Your Own Priorities and Objectives*).

A second step is to **assess the reasoning** of the counterpart in support of the position identified in the first step (**HOW does the counterpart reach this position?**):

– The tactical reasoning of the counterpart explains the logic and interest behind their position. This reasoning is tactical because it shapes the position without being its *raison d'être* and explains the logic through which a strategic goal or value of the counterpart is transformed into a position. Though seldom communicated by the counterpart, a member of the negotiation support team, a local staff person, or an acquaintance may explain the reasoning of the counterpart as

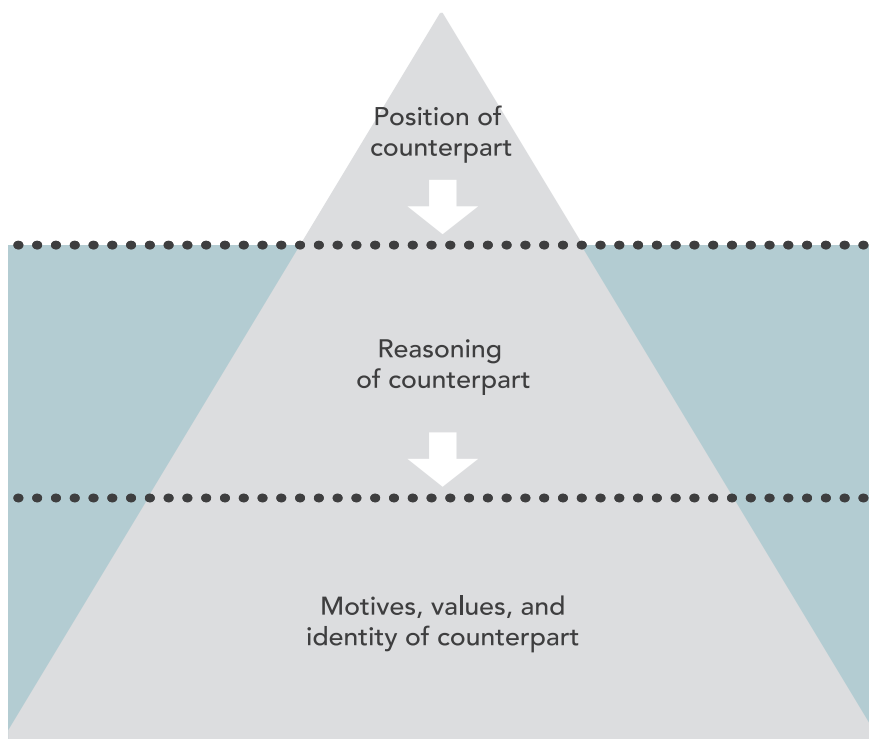


Figure 3: The Iceberg: Analyzing the position of the counterpart

Many humanitarian negotiations take place informally, as the organization's goal is not so much to gain a tactical advantage over the counterpart (as in a commercial negotiation), but rather to define how the parties will work together to address a common humanitarian problem.

part of an informal conversation. Knowledge about the reasoning of the counterpart is generally a strength, as it may help to build a new consensus on shared rational grounds. The aim of the conversation is to find a solution to the divergent, competing logical rationales rather than try to defeat the other side's argument. Depending on the situation, it would be most conducive for discussions on the tactical reasoning of the counterpart to take place in an informal setting.

**A third step** is to work out what inner motives and values are behind the counterpart's reasoning (**WHY has the counterpart taken such position?**):

– The inner motives and values of the counterpart are definitely of a more sensitive nature than their tactical reasoning. They may raise considerable emotions (e.g., anger, frustration, hopes, fears), especially in tense conflict environments. Yet, they are of great importance as they frame the position of the counterpart in a mantle of strict values and norms that often impose significant limitations on its ability to negotiate and find a solution. By being aware of

the counterpart's inner motives and values, humanitarian negotiators can better understand the political underpinnings of the starting position as well as the red lines that frame the rational side of the argument. The point here is not to “reason” or rationalize inner motives and values, which remain more emotional than logical, but to observe and understand the dynamic impact these values may have on the negotiation strategies of the counterpart.

The iceberg model provides an interesting analogy for such analysis. Icebergs floating in the ocean reveal only a small part of the ice to the eyes of the observers; the rest of the ice is under water. For the observer on a boat, the size and shape of an iceberg can be deduced only from the visible portion of the ice emerging above the water. The deeper the iceberg goes, the more speculative the interpretation will be from the information gathered above water. The greater the observer's understanding of the iceberg and its dynamic in the fluid environ-

ment, the more able the he/she will be to predict the movement of the iceberg.

The same goes for the analysis of the position of the counterpart in a negotiation process. The more complex the rationale and deeper the motives of the counterpart are, the more complicated the interpretation will become and the harder it will be to predict the evolution of the negotiation. This will consequently require the contribution of people and experts who know about the rationale and values of the counterpart to explain the reasoning behind the position and elucidate the motives and emotions involved. Ultimately, the conduct of a negotiation, as with navigating around icebergs, must foresee the dynamic of the counterpart and integrate some level of uncertainty in terms of its interests and motives hidden from view. Ignoring this analysis can come at great cost to the negotiation and parties to the negotiation. To illustrate such analysis, one may consider an example drawn from recent practice.



## EXAMPLE

### Health for All's Surgical Team Detained in a Labor Dispute

Nine staff members of Health for All (HfA), an international health NGO, have been prohibited by tribesmen from leaving their residence in District A for almost a week following a disagreement between HfA and the guards of the local HfA hospital. This dispute arises from HfA's plans to close the hospital due to decreasing war surgery needs in the region. The guards, who belong to an important tribe in the region, claim that the hospital should remain open and their compensation be paid as there are still considerable emergency health needs in the region.

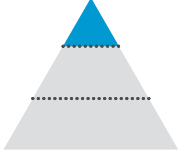
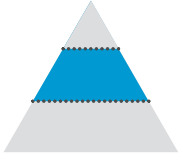
The guards, supported by tribal representatives, further argue that they put their life at risk for several years to maintain the access of patients and staff to the hospital during an especially violent conflict. Some guards even lost their life in this process and others sustained long-term disabilities. Families of the guards wounded or killed during the conflict further request long-term monetary compensation for the loss of income before HfA pulls out of District A.

For now, the hospital is barely operational, with several emergency needs left unattended. Tribal leaders are increasingly concerned about the health situation in District A and insist that the hospital remain open. Families of patients have been complaining about the lack of services in the hospital.

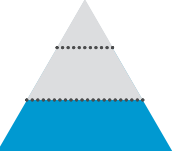
The tribal leaders have agreed to meet with HfA representatives to look for a practical solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene without the support of the tribal chiefs.

Before moving forward to deal with the main points of divergence with the guards (in particular, the freedom of movement and security of HfA staff), HfA negotiators will need to conduct a proper

analysis of the position, tactical reasoning, and motives of the tribal leaders and the guards in order to prepare their negotiation tactics properly. In this case, questions to be examined include:

QUESTIONS	POTENTIAL ISSUES
<p><b>WHAT</b> do the tribal leaders and the guards want? What are their explicit/implicit positions?</p> 	<p><b>POSITIONS AT THE NEGOTIATION TABLE</b></p> <ul style="list-style-type: none"> <li>• Explicit: Tribal leaders insist on keeping the hospital fully operational.</li> <li>• Explicit: The guards want to maintain their employment.</li> <li>• Explicit: Families of wounded and deceased guards want to be properly compensated.</li> <li>• Implicit: Detained staff will be released only when guarantees on the above are provided.</li> <li>• Implicit: In the meantime, emergency needs should be addressed by HfA.</li> </ul>
<p><b>HOW</b> did the tribal leaders get to those positions? <b>HOW</b> are the tribal leaders planning to proceed?</p> 	<p><b>TACTICAL REASONING</b></p> <ul style="list-style-type: none"> <li>• The detention of HfA staff has been triggered by the unexpected announcement of the closing of the hospital by HfA.</li> <li>• Guards and tribal leaders were not consulted in this process. This lack of consultation questions the authority of the tribal leaders and the professional role of the guards.</li> <li>• Both want their voice to be heard loud and clear by those who make such decisions. Detaining staff is the best way to get heard.</li> </ul>



QUESTIONS	POTENTIAL ISSUES
<p><b>WHY</b> do the tribal leaders take such positions? What are their inner motives and values?</p> 	<p><b>INNER VALUES AND MOTIVES</b></p> <p>There are several values and motives at play in this context:</p> <ul style="list-style-type: none"> <li>• In view of the rampant unemployment in District A, the only way the guards are to maintain their economic and social status is to ensure that they keep their jobs at the HfA hospital.</li> <li>• The tribal leaders further see this dispute as an opportunity to gain/improve their reputation and that of their tribe within the community.</li> <li>• There is a sense of inequity in the community regarding the position of HfA leaving disabled guards and destitute families of deceased guards to cope by themselves.</li> <li>• Contrary to HfA statements, the health situation in District A is raising serious fears and the local HfA hospital is the only health provider still operating in District A.</li> </ul>

This analysis will help to identify an *Island of Agreement* (see Section 1 **Green Context Analysis**) as the tactical plan is developed of the

negotiation. It will also inform the design of options and sequencing of issues to be addressed in this specific situation.

### Application of the tool

This tool presents a set of practical steps to analyze the position of the counterpart.

There are three steps in building an iceberg model to analyze the position of the counterpart.

#### STEP

1

### Gather information about the position of the counterpart and evaluate its clarity and authority

The first step entails gathering authoritative information about the position of the counterpart.

In frontline negotiations, the designation of the relevant counterparts and the authority of the communication can be subject to interpretation. The lack of clarity of the starting position is often a given due to the unstable and evolving environment of the negotiation and of the conflict. However, it can also be a tactic of the counterparts to maintain a certain level of ambiguity as a matter of security about the identity of the representatives. The most authoritative information would be a direct written communication from the designated counterpart to the humanitarian negotiator for the purpose of engaging into a negotiation.

Collecting information about the clarity and authority of the position of the counterpart requires therefore a three-pronged test:

1. What is the **level of authority granted by the counterpart**, community, or group to the particular interlocutor? What is the level of explicit representation?

The more authoritative the counterpart or his/her representative is (e.g., minister, military commander, leader of an armed group, etc.), the more likely that the communication represents the position of the other side. The more ambivalent the representation is (e.g., informal communication, undocumented position, not acknowledged by the counterpart), the less authoritative the communication becomes. Self-granted attribution of an unknown agent within the community is most likely a sign of limited authority. Even though the more authoritative the information is, the more reliable it may become, less authoritative information should not be dismissed, as it may be a way for the counterpart to pass a message/position without formalizing it too much.

**2.** What is the **level of clarity** of the position of the interlocutor?

A clear position for a layperson (e.g., a distinct proposal, yes/no answer, or a clear counterproposal) is most likely to be authoritative as it does not require much explanation and is free from ambiguities. Convoluted positions, marred with ambiguities, are most likely to come from less authoritative sources, or have been tainted on the way to the negotiation by conflicting interests, which makes them less conclusive.

**3.** What is the **predictability** about the timing, location, and format of the communication?

A communication gains in authority by being transmitted in a predictable manner in terms of channel, timing, location, and format. The negotiation position of a Minister of Foreign Affairs generally comes in a written format such as a *Note Verbale*, not via social media. The communication of the position of a military commander is rarely late or sent to the wrong addressee. A communication by the spiritual leader in a negotiation process is unlikely to be delivered by email. It will be expected that the humanitarian negotiator will use the same form and timing in his/her return communication.

This three-pronged test is valid for both verbal and non-verbal communication, and may help the negotiation team in their internal discussion to determine the relevance and authority of a position received from the counterparts. The interpretation of any communication may have severe consequences if it is left ambiguous.

For example :

### EXAMPLE

#### CLARITY AND AUTHORITY OF A POSITION IN A CROSS-LINE NEGOTIATION

A convoy of Food Without Borders (FWB), an international NGO, is waiting at a checkpoint to undertake a delicate cross-line operation to a besieged area. The operational plans have been submitted to the relevant military command, and the leader of the convoy is waiting for an answer at the last checkpoint before proceeding toward the no man's land. It is understood that the security of the convoy in the no man's land depends on the clarity of the position of the military on both sides.

Regarding the position of the military at the checkpoint:

- A first communication comes unexpectedly from a young uniformed corporal who arrives with a coffee jug, telling the convoy leader in a friendly and convivial tone: "That's all fine. We got the authorization for the convoy. You can go ahead. Good luck!"
- A second communication is made by the officer manning the checkpoint who, looking from the window of the guard post, simply nods and, without a word, waves to the drivers to go on.

- A third communication is made by a military intelligence officer who shares his concerns with the local drivers at the checkpoint that an attack may take place in the no man's land and that staff may be killed.
- A fourth communication detailing plans for the safe passage of the convoy comes through the radio, within earshot of the leader of the convoy, who is having tea with the officer in charge.

FWB needs to rely on the quality of the communication; it is imperative to have a clear and authoritative transmission from the counterpart to ensure the safety and security of the convoy crossing the no man's land.

The clarity and relevance of such communication very much depend on the culture, context, and circumstances of the negotiation. Cross-line negotiation requires a high degree of clarity and authority. It also requires a solid understanding of the interests and motives of the counterpart, as the humanitarian representatives are putting their lives into the counterpart's hands. However, in spite of a seemingly positive communication response and because of differences in logic, interests, and values, a counterpart may, in fact, act with nefarious motives. For example, the counterpart could actually be planning an attack against the convoy, in which case the attack is most likely to take place in the no man's land where it will be difficult to attribute the attack to the counterpart forces. Therefore, the counterpart will try to convince the leader of the humanitarian convoy, through unclear or deceptive communications, to proceed in order to undertake the attack against the convoy. Several humanitarian professionals have lost their lives in such circumstances because they were not able to distinguish the true interests and motives of the counterparts in the positive response to their request to pro-

ceed into the no man's land. The planning of an attack and the planning of a negotiation follow their own logic and value systems. There are also different protagonists involved—e.g., rogue elements wrestling for power on the frontlines vs. organized military following instructions. As the frontline negotiators seek to better understand the position of the counterpart at the entrance of the no man's land, they will need to be careful to pick up the implicit signals (“the writing on the wall”) of one logic over the other.

The same degree of clarity and authority may apply to other negotiations on the frontlines. The greater the clarity and authority of the position, the easier the interpretation of the position will be and the more chance the negotiation will result in a positive outcome. It is therefore imperative that humanitarian negotiators be knowledgeable about the culture and context of the negotiation and be available to receive and read communications. They should seek clarification whenever needed.

STEP

2

### Identify the rationale supporting the position of the counterpart

The second step is to seek an explanation of the tactical reasoning of the counterpart to understand where they want to go with their position. Rational thinking refers to a form of logic, deductive or inductive, that a third party could understand. The point is not to agree about the premise, logic, or outcome, but to be able to identify the reasoning behind the position of the counterpart.

For example :

## EXAMPLE

### **GOVERNMENT A INTENDS TO MAINTAIN ITS POLICY OF TARGETING MEDICAL PREMISES IN ENEMY TERRITORY AS THEY PROVIDE MEDICAL SUPPORT TO ENEMY COMBATANTS**

Health for All (HfA) considers opening a surgical clinic for war wounded close to the frontline.

The Military Commander of Government A opposes such a clinic. He explains to HfA representatives that he considers that wounded enemy combatants are targetable similar to any other military assets since they are most likely to return to combat once they have been treated by HfA staff. The military has therefore opted to target, without advance notice, medical premises where these combatants are located, even at the cost of violating clearly recognized international norms.

While the outcome of the reasoning amounts to a war crime under International Humanitarian Law (IHL), the reasoning in itself may well be logical in the context for those involved. Wounded enemy combatants represent a fortiori a military threat similar to any other military asset (such as a tank under repair would represent a targetable military asset). Under this logic, wounded enemy combatants and the premises where these individuals are treated may be attacked to gain a military advantage.

The rule of IHL drawn in 1864 protecting wounded combatants from attacks is predicated on a different military logic than the one prevailing in contemporary military circles, especially in contexts where wounded combatants can easily be treated and remobilized. Such logic needs to be considered in a negotiation about the protection of wounded combatants and medical premises, even if the humanitarian negotiators differ from that logic in view of the applicable international norms. The point here is not to agree with the logic but to understand the argument from the rational perspective of the counterpart.

Such logic is likely to trigger a counterargument as part of the negotiation tactic to sway the consensus toward an alternative logic that would value the life and dignity of wounded enemy combatants in the eyes of the government and support the protection of medical premises.

## STEP

### 3

### **Identify the values and motives underpinning the position of the counterpart**

The third step focuses on the values, identity, and cultural norms at play in the position of the counterpart and on which the counterpart often has little control. These values are inherent to the context and represent an ideological framework in which the counterpart operates. These values and norms need to be identified as it is unlikely that an agreement may be found without paying respect explicitly or implicitly to some of these norms. For example:

## EXAMPLE

### **GOVERNMENT A IMPLEMENTING RELIGIOUS NORMS CONTRADICTING IHL**

The International Monitoring Network (IMN), an international NGO monitoring conditions of detention, is raising concerns about the application of religious norms to foreign Prisoners of War (POWs), including corporal punishments for criminal acts.

Government A maintains that POWs committing a criminal act while in detention on the territory of Country A are subject to the religious rulings of the country. Despite the fact that corporal punishments are strictly prohibited under international law, the government intends to implement the punishments in line with the religious tradition of the state.

The position of Government A to implement religious norms in lieu of international treaty-based norms is not a derivative of any legal reasoning but is a result of the prevalence of an established set of religious norms and values that are beyond the control of the counterparts to the negotiation process. These religious norms cannot be negotiated as if they were technical modalities. Rather, for both sides to this negotiation, the issue at stake is whether and the extent to which religious norms should prevail or not over other secular or international norms and be applied to the enemy POWs. Alternatively, one should determine if POW detainees should be immune from corporal punishments on humanitarian grounds in view of the exceptional circumstances of their detention and the risk of reprisals against POWs under the power of other parties to the conflict.

It is important to understand the roots of the position in terms of values and norms as the humanitarian negotiator considers the tactic of the negotiation for the protection of detainees. In particular, one may consider building a dialogue on a values-based argument enhancing the protection of POWs within the religious order of the detaining state. A negotiation at the values level is most sensitive and involves a high level of risk, as it tends to generate emotional feedback from both sides of the negotiation table. Negotiation teams are advised to undertake a careful examination of the position, reasoning, and motives of the counterparts as part of the planning process of a negotiation. While this analysis may confront some of the accepted reasoning and values sets of the humanitarian organization, it will be a significant help in the design of the tactics and discussion with the counterpart. This analysis is best conducted in a critical format, i.e., with team members challenging each other to test their understanding of the position of the counterpart.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides a practical tool to analyze the position, reasoning, and motivation of the counterpart as key questions to deliberate with the negotiation team. This reflection should allow comparing notes in the respective understandings of the interests and motives of the counterpart. It should also facilitate the design of arguments on the organization's own tactical reasoning and values underlining its position (see *Module B: Identifying Your Own Priorities and Objectives*).

To have a comprehensive iceberg as close as possible to the reality of the counterpart, the negotiator and his/her team need to invest the necessary time and effort to take notes, assess the reasoning, and work out what the motives and values of the counterpart are. This practice emphasizes the importance of active listening and building a strong network within the context in order to collect the relevant information about the counterpart.

An additional aspect of the process is to recognize the deductive nature of the interpretation, i.e., how speculative it will remain in some circumstances depending on the level of access to information and ability to understand the context. The more entrenched the reasoning or the deeper the motives of the counterpart, the more speculative the negotiation team's analysis will become. It is important therefore to diversify the sources of information and remain cautious in their interpretation. This process is quite different from the next module about one's own iceberg which is inductive in nature, i.e., building from known motives and the organization's own operational planning and reasoning.

While the process may appear formulaic at times, it provides a common language and tool to discuss the analysis of the situation within the negotiation support team and encourages critical evaluation of the counterpart's position and their reasoning. As the team speculates on these elements, opening a critical space allows a thorough examination of the situation and informs the development of their tactical plan.

# Module B: Identifying Your Own Priorities and Objectives

## INTRODUCTION

The purpose of this module is to explore ways to identify the priorities of a humanitarian organization in a negotiation process as well as its specific objectives within a given mandate.

This module prepares for the transactional stage of the negotiation where possible options will be considered by the parties in the hope of finding an agreement.

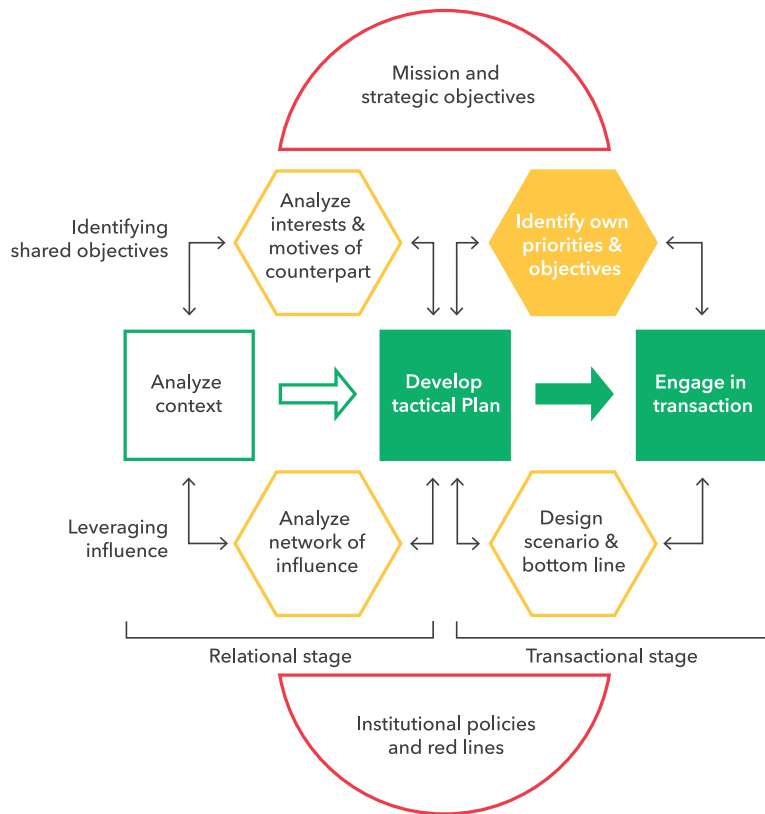


Figure 4: Identifying priorities and objectives in pairs with the interests and motives of counterparts

This module builds on the analysis of position, tactical reasoning, and values of the counterpart presented earlier in Module A through the use of the “iceberg” template. It informs the tactical planning of your own organization for the negotiation table by setting the Common Shared

Space (CSS) of the negotiation (see Module C). The main point of Module B is to support the development of a tactical plan that will allow for bridging the gap between the positions of the counterpart and those of one’s own organization.





## TOOL 10: IDENTIFICATION OF YOUR OWN PRIORITIES AND OBJECTIVES

Initially, the priorities and objectives of a negotiation process are drawn from the **strategic objectives and mission** of the organization and the scope of its institutional policies defines the options available to the negotiator. The mandate frames the negotiation process in terms of both of these aspects. The objectives of the negotiation are generally the product of a discussion with the hierarchy of the organization. The mandate embodies the authority given by the hierarchy of the organization (the mandator) to the humanitarian negotiator (the mandatee) to negotiate in the name and for the benefit of the organization. The mandate specifies the objectives and limits of the tasks required from the mandatee, including the expected methods and reporting lines to be used. However, contrary to traditional instructions to staff or agents, the mandate **provides a high degree of autonomy to the mandatee** on how to conduct the negotiation within the

limits set by the mandate. The concept of the mandate plays a critical role in this context. Compared to a representation role, the mandate of a negotiator provides significant space to explore options with the counterpart and delegates a certain authority to determine the best possible outcome of the negotiation within the limits set by the mandator.

There are many types of mandates in the humanitarian sector: states have mandated humanitarian organizations to offer their services in times of conflict; local authorities may mandate an NGO to manage a camp; patients may mandate a physician to undertake a life-saving surgery. There are also a number of internal mandates within an organization (in addition to instructions given to its employees and agents). Specific examples of the range of mandates: a nurse can be mandated to run a clinic; a pilot can be mandated to fly

an aircraft; an architect can be mandated to build a hospital. These mandates accord a certain level of autonomy to the agents in their respective profession, while other actors (such as accountants, logisticians, radio operators, drivers, etc.) are instructed to function within tighter technical constraints.

Frontline humanitarian negotiation is a specific mandate given to designated staff that comes with considerable autonomy—but also with red lines. Negotiation mandates for certain representatives (e.g., head of office, team leader, country director, etc.) are often combined with parallel and more

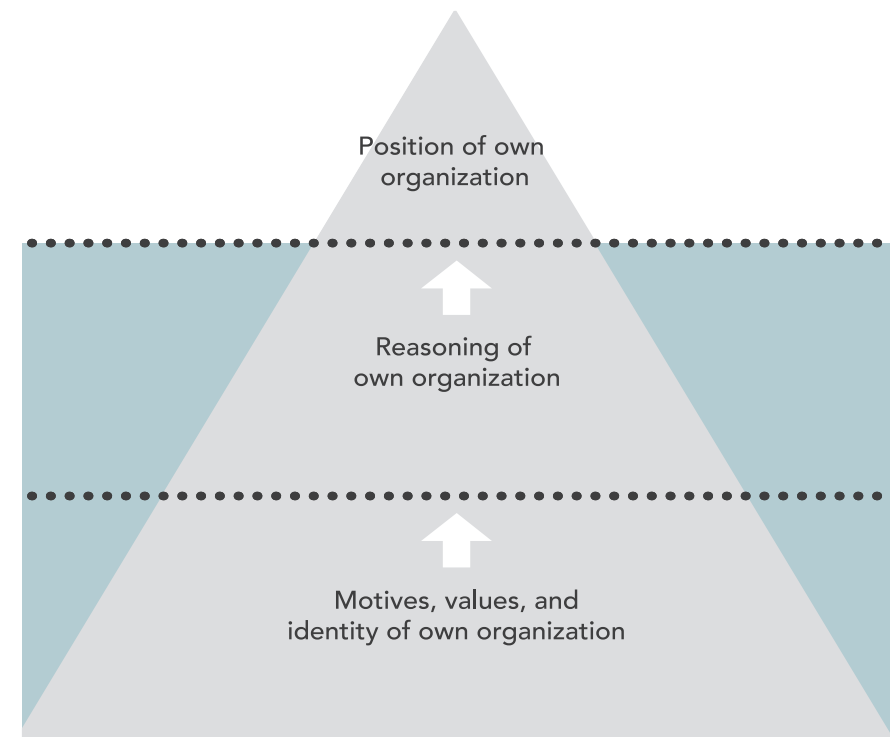


Figure 5: Analyzing the position of one's organization in a given negotiation

constrained responsibilities. The systematization of the methods of frontline humanitarian negotiators and the creation of a community of practitioners aim at increasing the level of autonomy of the mandatee within recognized professional standards. Section 3 **Red** will elaborate the details of negotiation mandates. The aim of this module is to facilitate the identification of the priorities and specific goals of an organization in a negotiation process from the interpretation of the mandate of the negotiator.

To identify negotiation priorities and objectives, it may be useful to mirror the reasoning and motives analysis of the counterpart presented in the previous tool using the same iceberg, but this time focusing on **one's own organization**, starting from its values and motives, to examining its tactical reasoning and professional standards, and finally ascending the iceberg to the position of the organization in the particular negotiation that will be communicated to the counterpart.

Based on the mandate received from the organization and looking into the contextual analysis, the main questions are therefore:

1. **WHY does our organization hope to operate** in the particular context? What are our inner principles, motives, and values?
2. **HOW does our organization intend to operate** to put these values into practice and have an impact? What problems are we trying to address? What professional tools and methods do we plan to use and implement? What is the reasoning of the operational plan?
3. **As a result, WHAT is our position** in the particular negotiation? What is our offer of service? What are the terms under which the organization is ready to operate as a point of departure of the negotiation (i.e., best-case scenario of an agreement)?

The logic of building one's own iceberg is the reverse of interpreting the position of the counterpart. One can only interpret the tactical reasoning and motives of the counterpart starting from the counterpart's position as communicated at the negotiation table. But to formulate one's own humanitarian organization's position, there is the advantage of having a **known set of values and norms** that informs the organization's operational reasoning in the form of methods, professional standards, and programmatic objectives. These, in turn, will indicate the starting position of the humanitarian organization in the specific negotiation. This position is then communicated to the counterpart from the outset of the negotiation. Hence, the values and identity of the humanitarian organization serve as a bedrock for defining its reasoning and mode of operation, which will then establish a starting position on the technical modalities of the operation to be negotiated. It is important to build the organization's

iceberg in such a way as to be able to explain its position in a negotiation through the various angles at any point of the negotiation. This communication will also facilitate the passages between different types of negotiation (see Section 1 **Green Typology of a Humanitarian Negotiation**), namely:

- From political negotiation about the organization's **values and identity** (WHO are you? WHY are you here?);
- To a professional negotiation about **tactics and modes of operation** (HOW do you operate?);
- To a technical negotiation about **the position on the modalities of the operation** (WHAT do you need? WHERE will you work? WHEN will you start? etc.)



## Application of the tool

This tool presents a set of practical steps to build a strong and coherent approach for one's position at the negotiation table using the tool presented above on the recent example drawn from practice introduced in the previous tools. It builds on the same situation from the preceding Module.

### EXAMPLE

#### HEALTH FOR ALL'S SURGICAL TEAM DETAINED IN A LABOR DISPUTE

Nine staff members of Health for All (HfA), an international health NGO, have been prohibited by tribesmen from leaving their residence in District A for almost a week following a disagreement between HfA and the guards of the local HfA hospital. This dispute arises from HfA's plans to close the hospital due to decreasing war surgery needs in the region. The guards, who belong to an important tribe in the region, claim that the hospital should remain open and their compensation be paid as there are still considerable emergency health needs in the region. The guards, supported by tribal representatives, further argue that they put their life at risk for several years to maintain the access of patients and staff to the hospital during an especially violent conflict. Some guards even lost their life in this process and others sustained long-term disabilities. Families of the guards wounded or killed during the conflict further request long-term monetary compensation for the loss of income before HfA pulls out of District A.

For now, the hospital is barely operational, with several emergency needs left unattended. Tribal leaders are increasingly concerned about the health situation in District A and insist that the hospital remain open. Families of patients have been complaining about the lack of services in the hospital.

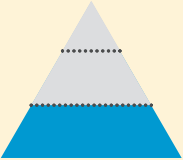
The tribal leaders have agreed to meet with HfA representatives to look for a practical solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene without the support of the tribal chiefs.


### STEP

1

#### Build the iceberg of the organization's own position starting from its values and motives

Building on the questions presented previously in the interests and motives analysis module, one can elaborate the position of HfA starting from the values and motives of the organization and ascending up HfA's iceberg toward the entry position at the negotiation table. The point of departure in this case is from the values and motives, rather than the position (as in the case of the counterpart analysis), since there is no need to speculate or interpret them—they are part of the genesis of the mission and presence of HfA in this context.

QUESTIONS	POTENTIAL ISSUES
<p><b>WHO</b> is HfA? What values define HfA as a humanitarian organization?</p> <p><b>WHY</b> does HfA want to operate in this context?</p> 	<p><b>INNER VALUES AND MOTIVES</b></p> <p>The mission and identity of HfA are based on several elements that are of relevance in this particular context:</p> <ul style="list-style-type: none"> <li>• HfA is a humanitarian organization. It operates under a set of principles detailed in its mission statement (neutrality, impartiality, proximity, etc.).</li> <li>• It aims to ensure equitable access to health care for ALL, with special attention to the surgical needs of the most vulnerable in District A. It aims to complement existing services, public and private.</li> <li>• It is an ethical organization committed to respecting medical ethics and the privacy of the patient. It is bound by the human rights of patients.</li> <li>• It is a non-profit organization providing free services to populations in need of health care.</li> <li>• It is transparent, well managed, and a diligent employer keen to maintain good relationships with the people and communities it serves.</li> <li>• While it has limited resources, it strives to do its best to ensure the continuity of access to health care as long as there are needs falling within its mandate.</li> <li>• In the particular context, it appears that there are segments of the population deprived of access to essential health care services. This context falls within the mandate of HfA as long as these needs are present.</li> </ul>

QUESTIONS	POTENTIAL ISSUES
<p><b>HOW</b> does HfA intend to operate?</p> <p><b>WHAT</b> are the specific methods?</p> 	<p><b>TACTICAL REASONING</b></p> <ul style="list-style-type: none"> <li>• As a professional organization, HfA maintains professionally recognized protocols in terms of medical services, managerial methods, and financial accountability to donors.</li> <li>• It maintains a dialogue with the community and local health professionals around assessing the needs of the population.</li> <li>• As a private charitable organization, HfA has the authority to decide on its priorities and objectives. It needs to consult regularly with local leaders and communities on the development of its activities.</li> <li>• It is also accountable to the health authorities of District A in terms of its role and objectives in the health care system of the district.</li> <li>• In terms of security of staff and premises, it hires guards from the community to help secure the buildings (hospital, clinics, residence of staff) in accordance with applicable legislation and local customs. The guards are lightly armed due to the high level of armed and criminal violence in the context.</li> <li>• A direct link is maintained between HfA guards and the local police force.</li> <li>• In view of the tribal character of the society, the selection of the guards is made in consultation with tribal leaders who will propose and review candidates.</li> </ul>

## QUESTIONS

**WHAT** does HfA want out of this negotiation? Under what terms does it wish to operate? What is HfA's position? How does it want to communicate this position?



## POTENTIAL ISSUES

### POSITIONS AT THE NEGOTIATION TABLE

- HfA insists on the immediate release of all HfA staff and their evacuation from District A.
- Tribal leaders must guarantee the safety and well-being of HfA staff, in the meantime.
- HfA scales down its surgical activities in the region and hands over the hospital as well as obligations toward the guards and their families to a third party.
- Meanwhile, HfA engages in consultation to rebuild trust with the community.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

In a complement to the iceberg of the counterpart, this tool provides a parallel tool to apply the values and motives of the humanitarian organization to its reasoning and methods, which in turn can define and explain the position to be asserted at the negotiation table.

This reflection will support and guide the frontline negotiator in capturing and analyzing information from the counterpart, as well as in creating a nuanced relationship with the counterpart. It will further allow for the opening of a Common Shared Space for the negotiation and shifting the mindset of the negotiating team from advocating for one's position to finding ways to build co-ownership on the negotiation options (see Section 2 **Yellow** Drawing A *Common Shared Space*.)





## Drawing the Common Shared Space of the Negotiation

Humanitarian negotiation essentially involves the exploration of a shared space—as distinct from the “humanitarian space”—where parties to the negotiation can safely review values, methods, and parameters of a proposed operation. The more trustful and predictable the relationship is, the more fertile the exploration of potential areas of convergence will be. This search for convergence is in contrast with the work of humanitarian advocates whose role is to protect the humanitarian space and to convince the other side to respect the entitlements of the humanitarian organization.

To succeed, a negotiation must be more than a competition between two narratives. Parties must be able to generate a substantive dialogue on values, methods, and the details of relief and protection operations as a means to generate an implementable and impactful agreement. It involves an ability to distance yourself from your own position - your own iceberg made of principles, methods, and positions—and meet the counterpart to explore opportunities of agreements.

Such an approach involves a shift of the ethos of humanitarian professionals from the original guardian of the humanitarian space to a new philosophy and attitude pertaining to negotiators. It may at times be a challenge for humanitarian professionals to distance themselves from their own values, norms, and methods in order to engage genuinely in an exercise of exploration of potential compromises with the counterparts.

**The co-ownership of the negotiation process is a fundamental characteristic of robust relationships. Ultimately, a final agreement is as much the product of the humanitarian organization's efforts as those of the counterpart.**



## TOOL 11: EXPLORING THE COMMON SHARED SPACE

The purpose of this tool is to open a space of exploration with the counterpart in terms of possible arrangements between the two parties so as to reach an agreement. It prepares for the transactional stage of the negotiation where possible options will be considered by the parties in the hope of finding an agreement.

This tool builds on the analysis of interests and motives of counterparts and of one's own organization presented earlier

in the earlier Modules A and B in Section 2 **Yellow** through the use of the “iceberg” template. It informs the tactical planning by setting the Common Shared Space (CSS) that will in turn inform the location of the red line and bottom lines of the negotiation discussed in Module D. The main point of this tool is to support the development of a tactical plan that will allow for bridging the gap between the position of the counterpart and those of our own organization.

This tool is designed to help humanitarian negotiators process the required information and develop the right attitude.

### From Differences Between the Parties to Opportunities of Agreement

Rather than see the distance as an obstacle, frontline negotiators interpret this space as the area of professional engagement with the counterpart, the Common Shared Space of the negotiation where the parties will explore areas of potential shared values, shared reasoning, and shared positions which may end up in the final agreement.

Building on the analysis of both parties' interests and motives (see Section 2 **Yellow Module A: Analysis of Interests and Motives**, and *Module B: Identifying Your Own Priorities and Objectives*), the negotiator is able to determine the distance between his/her organization and the counterpart.

This space is composed not only of the shared possibilities, but of **all the options**, including those disagreeable to one or both of the sides. The goal of the dialogue between the parties is to sort out and understand their respective preferences and objections.

Identifying the area of the negotiation therefore involves:

1. Communication of the respective positions of the parties (P) and (P');
2. The ability to explain one's tactical reasoning (R) and connect it to the reasoning of the counterpart (R');
3. The openness to discuss one's underlying values and norms (V) in a language and method that may relate to the values and identity of the counterpart (V'); and,
4. The recognition of the distance between the two sets of positions/methods/values in order to offer an opportunity for dialogue and improved understanding of the counterpart.

### Common Shared Space of the Negotiation (Area to search for potential agreements)

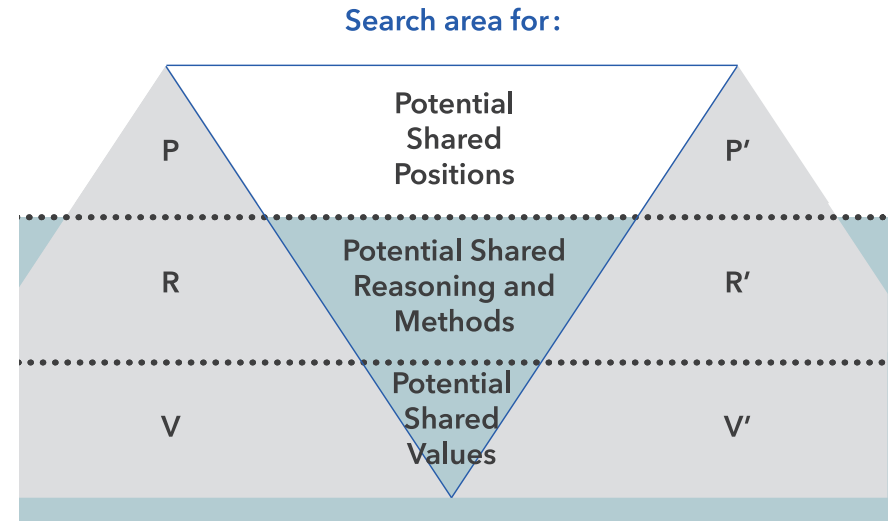


Figure 6: Defining the Common Shared Space of the Negotiation

In this Common Shared Space of the negotiation, which is co-owned by the negotiators, it is hoped that the parties are willing to find a compromise.

The negotiation should be presented as a process for the parties to explore ways to reconcile P, R and V with and P', R', and V'. For example:

### EXAMPLE

#### Negotiating access to IDP camps with the governor of a remote district

Food Without Borders (FWB), an international NGO, is negotiating access to IDP camps with the Governor of a remote district of Country A. Because the rainy season has paralyzed access by road to the district, FWB is also seeking access to the local airstrip, which is under the control of the Governor. The movement of the food within the district will further require the security guarantees of the Governor and the leaders of the local militia under his control.

The object of the negotiation relates to access to IDP camps. This negotiation involves several technical issues, such as :

- a. Landing rights for humanitarian flights;
- b. Timing and itinerary of humanitarian convoys; and,
- c. Location and number of beneficiaries within the population of the IDP camp.

The reliance on the agreement by the parties and its implementation involve operating procedures and methods that need to be clarified at the tactical reasoning level, respectively :

- a. Common understanding on flight pathways and communication procedures;
- b. Common protocols of checkpoints and communication procedures with the militia; and,
- c. Common understanding on the terms of the presence and role of FWB staff in the IDP camp.

These elements of tactical reasoning are, in turn, inspired by the values and norms of the parties, hence :

- a. Respect for the national sovereignty and control over airspace and air operations;
- b. Respect for key principles in the distribution of the food to the IDPs; and,
- c. Respect for the counterpart's authority over the population and security of the camp.

In other words, while the agreement with the Governor may focus on technical issues, namely, the use of the airstrip, the movement of trucks within the district, and the operations in the IDP camps, the quality and durability of the agreement in terms of implementation require a thorough engagement at the values and reasoning levels of the conversation. The front-line negotiator is well advised to take the time necessary to explore the Common Shared Space as to ground technical arrangements in a sound and shared understanding of the respective positions, reasoning, and values between the parties.

Understandably, some negotiations may already have a strong focus on diverging values (e.g.,

on the visibility of an emblem) or diverging tactical reasoning and methods (e.g., on the terms of the distribution of the food) that will frame further discussion on the activities of the organization at a more technical level. This focus implies that negotiators on both sides will concentrate their energy on exploring the Common Shared Space at the technical level while paying attention to the implications at the other levels. For example :

*The leader of the militia objects to the use of the logo of FWB on the convoys crossing the territory under his control. He requires that all displays of the FWB logo be withdrawn from the trucks.*

The humanitarian negotiator must discern if the position of the militia results essentially from :

- A disagreement about where and when the logo is being displayed (technical level);
- A divergent understanding of how the logo is being used to

identify the FWB's convoy (on the door, on flags, on the roof top, etc.) (tactical/professional reasoning level); and/or

- A divergent understanding of the meaning and implications of the logo (values level).

Issues of logos tend to focus on the “message” the logo carries, notwithstanding the intent of the organization. *In this case, the leader of the militia believes that the logo is offensive toward the local culture.*

Depending on the level of engagement and trust, the humanitarian negotiator will focus the search for potential agreements on the most promising areas, i.e., where the relationship has most traction, selecting, alternatively, these search areas :

- V <-> V': The organization already has good connections with militia members as well as with religious scholars and community leaders in the region. They may recognize the non-religious and non-political character of the logo;

- R <-> R': The organization is recognized as a professional entity. Professionals in the region may vet for the professional use of the logo so as to identify the service of the organization and ensure the security of the personnel; and
- P <-> P': The convoys of the organization are already operating and recognized in the region and can accommodate varying degrees of visibility of its logo in the course of its operations without hindering its security. It will require a

more thorough management and notification process so as to avoid any misperceptions of the humanitarian and protected nature of the convoys.

In all cases, the first step is about understanding the perspective of the counterpart and seeing how to reconcile possible divergences at the various levels of engagement. (For a more detailed discussion on the various types and levels of engagement, see Section 1 **Green**, *Determining the Typology of a Humanitarian Negotiation*.)

### Starting with Values: Reformulating divergent beliefs into shared values

Going back to the exploration of the Common Shared Space, this module will focus on a systematic search for shared values.

Searching for shared values is about finding overlap between the structure of beliefs of both sides and reformulating these values into a common shared vocabulary. (For a more detailed discussion on engaging on

values and norms, see Section 1 **Green** *Drawing the Pathway of a Normative Negotiation*.) A key aspect of the process for humanitarian negotiators is to understand that they need to move beyond the rhetoric of “humanitarian principles” to be able to **explain the meaning and relevance of each of the principles in the particular context. Humanity, Impartiality, Neutrality, and Independence** are values and norms that

belong to the humanitarian community, not the parties to an armed conflict. Yet, some aspects of these norms can certainly be shared if presented in a meaningful and relevant way in the eyes of the counterparts. Hence, humanitarian principles need to be **unpacked and “translated”** into a palatable vocabulary for the counterpart so he/she can recognize common beliefs. For example:

PRINCIPLES AND VALUES	TRANSLATED INTO SHARED VOCABULARY ADAPTED TO THE CONTEXT
HUMANITY	Focusing on preserving the life and dignity of people affected by armed violence
IMPARTIALITY	Considering the needs of those most affected first
NEUTRALITY	Refraining from taking sides in armed hostilities
INDEPENDENCE	Acting without interference from other actors and stakeholders



The same applies to tactical reasoning and professional methods which are measurable by their capacity to mobilize a consensus among peers on **HOW** the organization should operate in the affected territory. There are a number of procedures and mechanisms that make a

lot of sense for humanitarians but have little resonance with counterparts. **These methods need to be unpacked as well in order to become tangible points of the conversation** so both sides may agree on how to handle the humanitarian needs of the population. For example:



TACTICAL METHODS	TRANSLATED INTO SHARED VOCABULARY ADAPTED TO THE CONTEXT
Humanitarian assistance	These are lifesaving resources brought by the organization to help the population cope with a crisis.
Humanitarian protection	These are interventions made to draw the attention of authorities on their obligation to protect the population against the effect of hostilities. Humanitarian NGOs or agencies are not “protecting” the population in a strict security sense but are assisting the relevant authorities and the communities themselves in finding ways to prevent or mitigate the effects of hostilities on the population.
Evidence-based	Assessment of needs must be performed as close as possible to the reality so as to ensure efficiency of the programs.
Accountability	Agency depends on multiple stakeholders, from donors to governments, that provide the resources and space to operate. It must provide information on how it fulfilled its obligations.
Transparency	NGOs and agencies are public interest organizations. They must maintain a level of transparency on how and where they operate.
Do no harm	Ensuring as much as possible that the programs of the organization are not having a negative impact on the affected population or host community.
Confidentiality	The agency maintains trustful and privileged relationships with counterparts as well as beneficiaries and stakeholders. The parties are expecting a level of discretion on the interactions with the humanitarian organization. It is a delicate balance to maintain confidentiality—but not secrecy—while observing the duty of transparency.



Finally, the position of the organization should be communicated clearly so that the counterpart both understands where the organization stands and perceives its willingness to engage. (For more details, see Section 1 **Green** *Fostering Legitimacy and Building Trust*.) Introduction of technical terms can also launch a new tangent of discussion, especially in areas of chronic emergency requiring multi-year responses, where the humanitarian lexicon can be misinterpreted or misused by counterparts. Hence, one should avoid language in a position that pre-empts a conversation or closes the door to the exploration of potential agreements, such as:

- “Under international law, we have the right to ...”
- “Our organization will never accept ...”
- “This position is non-negotiable.”

- “We are not willing to discuss this point.”
- “This situation is unacceptable.” Etc.

The doctrine of the organization may indeed prohibit specific arrangements proposed by the counterpart. The leadership of the organization may even call for a denunciation of the action of the counterpart. Yet, the mandate given to the humanitarian negotiator is to engage in a conversation with the counterpart, explore possibilities, and build trust, not to prohibit or denounce their action. The mandator (e.g., country director of the organization) should be the one communicating the strong prohibiting messages. Organizations must maintain the credibility of the role of frontline negotiators by sparing them from acts of denunciation or intimidation towards the counterpart. Frontline negotiators must not hesitate to request or insist on this kind of support from the negotiation team in order to preserve their place and relationship with the counterpart.

It is well understood that there will be a time to set clear “red lines” and manage expectations, which is also part of the job of frontline negotiators. Yet, the conversation on red lines can take place only if and when the level of dialogue and the engagement between the negotiators are sufficiently developed. To start a conversation by stating the red

### Application of the Tool

As mentioned above, the Common Shared Space is a derivative of the analysis of the two icebergs and their juxtaposition. It allows for the identification of options to be explored in a first step informed by the previous identification of agreed facts and convergent norms (see the *Drawing of the Island of Agreement* in Section 1 **Green**), to be followed by the design of the scenarios and red lines which are presented in the next module (Module D: Drawing Scenarios and Bottom Lines).

lines is an act of power subjugating the Common Shared Space to the terms of one side. It is recommended therefore that the opening position focuses on stating what the organization wants and is not construed as a negative assertion (i.e., stating what the organization rejects) as a way to open a dialogue on the views of the other side without restrictions.

The CSS is very much inspired by the *Island of Agreement* exercise as well as the *Typology of a Humanitarian Negotiation* presented in Section 1 **Green**. The connection between these tools should be well understood.

*On the Interface Between the Island of Agreement and the Common Shared Space*

The Island of Agreement presented in Section 1 **Green** and the CSS introduced in this module are important tools in the planning process of a humanitarian negotiation. While they are inspired by the same

idea of sorting elements to find a conducive pathway for the negotiation, they serve different purposes :

- The Island of Agreement is a tool assisting the **humanitarian negotiator** in establishing a positive dialogue with the counterpart on **all aspects** of the situation as a **basis for a trusted relationship** despite potential divergences on norms and/or disagreements on facts; while ...
- The Common Shared Space serves as a tool of the negotiation team identifying the convergence between the parties on specific aspects of the negotiation in terms of values, tactical reasoning, and technical positions to serve as a basis for the search for an agreement on a specific transaction between the parties.

Hence, one should be careful to keep these two tools distinct as they serve different purposes. There are objects of agreement and convergence in the Island of Agreement that are not relevant

to the transaction. There are objects in the CSS model that need to be confirmed through the exploration of the space of potential transaction.

*On the Interface Between the Typology of Negotiation and the Common Shared Space*

Likewise, there are clear points of contact between the typology assessment presented in the tactical planning section and the CSS presented in this module. While the two are interconnected, there are, however, some differences in the use of the respective tools :

- The typology model is designed to help the **humanitarian negotiator** in selecting the tactical angles of his/her negotiation (political vs. professional vs. technical), as well as **identifying the tactics and required human resources to bring to the table**; while ...
- The CSS model is designed to help the **negotiation team** sort out the substantive values, tactical reasoning, and

position of the parties and **review potential options for agreement.**

These tools work together in a sequenced manner as the humanitarian negotiator and the accompanying negotiation team work through the planning process. This particular module is

designed to support the deliberation between the negotiator and his/her negotiation team where options for the transactional stage are being discussed, drawing from the same taxonomy of the Naivasha Grid, taking the situation described in the previous module and building on the analysis of both icebergs :

### EXAMPLE

#### HEALTH FOR ALL'S SURGICAL TEAM DETAINED IN A LABOR DISPUTE

Nine staff members of Health for All (HfA), an international health NGO, have been prohibited by tribesmen from leaving their residence in District A for almost a week following a disagreement between HfA and the guards of the local HfA hospital. This dispute arises from HfA's plans to close the hospital due to decreasing war surgery needs in the region. The guards, who belong to an important tribe in the region, claim that the hospital should remain open and their compensation be paid as there are still considerable emergency health needs in the region. The guards, supported by tribal representatives, further argue that they put their life at risk for several years to maintain the access of patients and staff to the hospital during an especially violent conflict. Some guards even lost their life in this

process and others sustained long-term disabilities. Families of the guards wounded or killed during the conflict further request long-term monetary compensation for the loss of income before HfA pulls out of District A.

For now, the hospital is barely operational, with several emergency needs left unattended. Tribal leaders are increasingly concerned about the health situation in District A and insist that the hospital remain open. Families of patients have been complaining about the lack of services in the hospital.

The tribal leaders have agreed to meet with HfA representatives to look for a practical solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene without the support of the tribal chiefs.

In this case, the range of options includes areas of potential shared objectives at each level of the negotiation. Discussions should allow the co-ownership of the Common Shared Space and see how it can address expectations on other elements in a second step.

**STEP**

**1**

**This step is designed to assess the potential shared values by building on the iceberg assessment mentioned in the previous modules.**

Potential shared values:

<b>CONVERGENT ELEMENTS TO SERVE IN EXPLORING THE CSS</b>	<b>DIVERGENT ELEMENTS TO LEAVE ASIDE</b>
<ul style="list-style-type: none"> <li>• The welfare of the community is of concern to both sides, in particular in view of the rise of communicable disease.</li> <li>• Both sides also share concerns for the well-being of the families of wounded guards and those killed on duty in recent years.</li> <li>• Both sides want to find a solution to this unfortunate situation as it questions their reputation in the country, affecting their leverage in other relationships.</li> <li>• Both sides appreciate the importance of evidence-based decision-making, ensuring objective policies in terms of community health.</li> </ul>	<ul style="list-style-type: none"> <li>• The legitimacy of tribal leaders in the eyes of the community is not a primary concern to HfA.</li> <li>• The humanitarian character of the mission of HfA, in terms of proximity, neutrality, impartiality, or medical ethics, is not a particular concern for the tribal leaders.</li> <li>• Continued employment of the guards is not a core mission of HfA.</li> </ul>

This assessment of the potential shared values is of importance to ground the negotiation in ideological/political terms. These shared values can be mentioned at times at the negotiation table so as to encourage a dialogue on issues and potential shared methods and tactics.

The following step is designed to assess the potential shared reasoning by building on the converging values mentioned above.

Potential shared reasoning and methods :

CONVERGENT ELEMENTS TO SERVE IN EXPLORING THE CSS	DIVERGENT ELEMENTS TO LEAVE ASIDE
<ul style="list-style-type: none"> <li>• The safety and security of staff are common goals of both sides.</li> <li>• It is important to de-escalate the situation and resume normal operations to mitigate reputational risks on both sides.</li> <li>• Greater consultation with the community and the tribal leaders is part of the solution.</li> <li>• It is important to restore the activities of the hospital and ensure the integrity of its staff and premises.</li> <li>• There needs to be an assessment of the rise of communicable disease in District A.</li> <li>• There needs to be an assessment of the vulnerability of families of injured guards and guards killed on duty over recent years.</li> </ul>	<ul style="list-style-type: none"> <li>• Health care is a public service. By working in this domain, HfA may have forfeited part of its autonomy of decision-making to local leaders and community.</li> <li>• Holding staff is a way of drawing attention from foreign leaders.</li> <li>• HfA is a charitable organization accountable to its foreign board and donors.</li> <li>• The presence and roles of local law enforcement and authorities vs. tribal leaders in this matter are problematic.</li> </ul>

CONVERGENT ELEMENTS TO SERVE IN EXPLORING THE CSS	DIVERGENT ELEMENTS TO LEAVE ASIDE
<ul style="list-style-type: none"> <li>• HfA as a community-based employer should consider the vulnerability of local staff as an impact of closing the hospital.</li> </ul>	<ul style="list-style-type: none"> <li>• Tribal traditions should be the governing standard of labor relations between HfA and its local staff and a measure of the liabilities of HfA toward employment of the guards and compensation of the families of injured or killed guards.</li> </ul>

The assessment of potential shared rationale and methods allows the negotiators to observe a first set of possibilities that could feed the discussion on the positions of the parties at the negotiation table. It also underlines issues of divergence that one should consider so as to avoid creating obstacles by positions of principle or presenting rationales that are not palatable to the counterpart.

The final step of this process is to consider the scope of potential shared positions of the negotiation by building on the two previous steps.

Potential shared positions :

POTENTIAL AREAS OF AGREEMENT	POTENTIAL AREAS OF DISAGREEMENT
<ul style="list-style-type: none"> <li>• Medical needs should be addressed promptly, and staff should be allowed to return to work.</li> <li>• Tribesmen should withdraw from the perimeters of the residence so as to allow staff to go back to work when necessary.</li> <li>• There is no need to rush into a decision on the closure of the hospital. Further consultation should be undertaken.</li> <li>• Assessment of the vulnerabilities of staff to the potential redeployment of HfA assets should be undertaken.</li> <li>• HfA will seek greater support on communicable disease in the region.</li> </ul>	<ul style="list-style-type: none"> <li>• HfA cannot guarantee continued employment of local staff.</li> <li>• HfA cannot be seen as carrying out the responsibilities of the health authorities of District A.</li> <li>• Tribal leaders cannot accept the closure of the hospital.</li> <li>• Tribal leaders are not the police force in District A. They cannot guarantee the full safety and security of staff.</li> <li>• Guards will not forfeit their right to full unemployment compensation.</li> <li>• Families of guards will not forfeit their right for compensation.</li> </ul>

With this analysis in mind, humanitarian negotiators are in a position to consider the design of scenarios, including the angle from which they intend to approach the counterpart, and the determination of proper bottom line and red line as presented in the next module.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides a first opportunity to observe the new role and ethos required to enter into a negotiation process. From the role of humanitarian advocate projecting humanitarian values, norms, and methods, the humanitarian negotiator must become a legitimate interlocutor to listen to the position of the counterpart, understand its tactical reasoning, and show empathy towards its values. The humanitarian negotiator needs to identify the scope of possibilities and explore alternative ways to reconcile two competing narratives. He/she must be further able to “unpack” their own organization’s values and methods to make them palatable to the counterpart and see where it is possible to find overlaps in terms of common meanings and purposes. Some of these efforts to build a rapport may exceed the mandate and red lines of the negotiator, yet there will be a time to negotiate within more constrained spaces (see the next module). At this stage, the objective is to establish the basis of a dialogue and spend the required time understanding each other’s position.

# Module C: Network Mapping

## INTRODUCTION

The purpose of this module is to examine the relationship between the humanitarian organization and its counterparts within the social and political context of the negotiation. The goal is to explore ways to mobilize support among influential stakeholders and create a conducive environment for the counterpart to move toward the demands and expectations of the humanitarian negotiator.

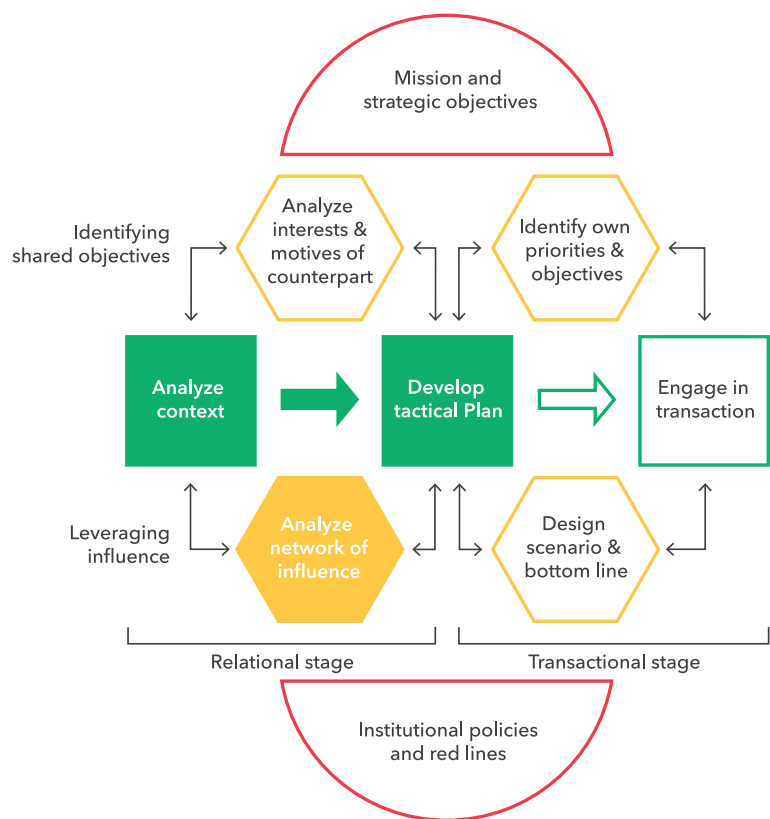


Figure 7: Mapping stakeholders: Opening avenues to leverage influence

In the previous modules, we have reviewed the position, tactical reasoning, and values of counterparts. Interest and motive analyses assume a degree of autonomy of counterparts in determining their position at the negotiation table. Yet, we acknowledge that positions in a negotiation process are also influenced by the environment in which the parties evolve as much as by their tactical reasoning and the value judgments of others over the issues on the table. Values in particular are understood as a community concern and are open for deliberations within the social network of the counterparts. It is therefore important to integrate into the analysis the role and perspectives of other stakeholders in a negotiation process as a significant source of leverage (positive or negative) on the determination of the counterparts' position.

To this end we use the model of the so-called "mapping exercise." This exercise should be conducted in collaboration with the negotiation team, as it requires discussing the relative positioning of actors on a political map, best

achieved through a critical and informed discussion among the members of the negotiation team, especially local national staff who benefit from connections with, and understanding of, social and political actors. Mapping is of particular importance in cases where counterparts play a key political role in their community (e.g., high-level government officials, tribal leaders, military commanders, etc.) and who may, in such cases, gain or lose considerable authority and legitimacy from humanitarian negotiation. Their legitimacy is intrinsically based on their ability to balance the interests of opposing political forces under their recognized leadership. It is therefore important to map out these converging or opposing influences in the counterparts' decision-making process on a particular issue and situate the position and role of the humanitarian organization in this context.



## TOOL 12: NETWORK MAPPING AND LEVERAGING INFLUENCE AMONG STAKEHOLDERS

From the outset, such a mapping exercise requires the recognition that:

### 1. There are numerous competing actors involved in a humanitarian negotiation.

Humanitarian negotiations never take place in a vacuum, but rather occur in crowded environments with multiple competing actors from the political, security, and humanitarian sectors. While humanitarian organizations tend to see their counterparts as the controlling authority over a humanitarian issue (e.g., the military commander controlling access to a population), counterparts tend to see their relationship with humanitarian organizations as one among several connections with representatives of influence (e.g., militia leaders, chief of police, journalists, religious leaders, traders, other interest groups, etc.) over the issue at stake.

### 2. Hence, humanitarian negotiation is intrinsically part of a political process of balancing influences among stakeholders.

The position of counterparts in a humanitarian negotiation is rarely the product of inner value judgment or practical reasoning alone. Empathy toward victims and the desire to comply with legal, moral, or professional norms are most of the time insufficient to generate a favorable response to the demands of humanitarian organizations. Humanitarian crises are for the most part the products of competing political forces vying for greater influence. In politically tense situations, humanitarian negotiators must focus not only on the internal cost/benefit analysis of the counterparts in terms of agreeing to the demand of their organization, but on the cost/benefit in terms of the power relationships within their constituency.

### 3. While the principle of neutrality requires humanitarian organizations to refrain from taking a position on an issue at conflict, they often play a significant role on the political map of counterparts by bringing visibility, resources, and legitimacy.

There is a definite risk of confusing the requirement for humanitarian organizations to maintain a neutral standing with regard to the issue at conflict (e.g., control of a party over a territory, prominence of a particular leader, ideology of a party, etc.) and the political ramifications of a humanitarian negotiation. In some contexts, these ramifications can have a definite impact on the conflict situation and, therefore, on the perception of the neutrality of humanitarian organizations. As a result, many humanitarian organizations are reluctant to acknowledge the political implications of their humanitarian

efforts. This confusion is compounded with the economic and social impact that programs may have on the political landscape of the conflict. In prolonged conflicts, the politicization of aid by donors may further contribute to the confusion on the neutral vs. political character of the humanitarian issue at the negotiation table.

The risk of conflating humanitarian negotiation and other political processes, including political mediation, is therefore real to the point that one cannot remain oblivious to the political footprint a humanitarian organization may bring to bear on the power relationships between the parties and their stakeholders.

There is a growing confusion between the objects of humanitarian negotiation and the objectives of political mediation. Following the development of an integrative vision of the peacekeeping, political,

and humanitarian roles of the United Nations in times of conflict, there have been increasing concerns over the use of humanitarian access and delivery as confidence-building/points of pressure with parties to hostili-

### Humanitarian Negotiation vs. Political Mediation

Humanitarian organizations negotiate for access and delivery in line with humanitarian principles, but must operate within the challenges of highly charged political environments. While both political mediators and humanitarian negotiators seek to stabilize a conflict situation and minimize risks of further escalation, the mission of political mediators is to build a political consensus to address the causes of the conflict, while the mission of humanitarian negotiators is to address the immediate humanitarian consequences of the conflict. Yet, pursuing humanitarian access is often misconstrued as a confidence-building tactic in the arena of political negotiations. To be recognized as impartial, neutral, and, especially, independent, humanitarian negotiators must avoid being involved in politically motivated processes. They must be equipped to play at times a political role, exerting pressure on counterparts to seek access to affected populations, while also globally mobilizing the necessary attention to ensure the effective delivery of assistance. In this context, one cannot disassociate the mobilization of political support for humanitarian action with the politicization of the same action in specific situations. It depends on humanitarian actors to remain in control of the political implications of their action.

ties. To remain neutral, humanitarian organizations need to proactively assess the political map of their intervention and ensure that humanitarian action is not being instrumentalized by other stakeholders. It is imperative that humanitarian negotiators take into account the potential costs and benefits of such relationships for the counterparts and their stakeholders.<sup>1</sup> To support such efforts, this module proposes a straightforward mapping tool in four steps:

- 1) The first step involves the creation of a mapping tool to situate the role and perspective of humanitarian organizations and stakeholders relative to each other on a specific humanitarian issue;
- 2) The second step assigns the main counterpart the position in the center of the map and places all the relevant stakeholders in the respective quadrants across the map;

- 3) The third step focuses on tactical schemes to guide the engagement of humanitarian negotiators with stakeholders to leverage their influence; and,
- 4) The fourth and final step helps prioritize mobilization efforts toward conducive connections among stakeholders that may support a positive outcome of the negotiation.

Mapping influencers is not a scientific exercise. It relies on layers of subjective assessments of interactions between stakeholders. The point of a mapping exercise is not to forecast the outcome of a negotiation but rather to help plan the mobilization of the positive influence over a counterpart. While humanitarian negotiators mostly know stakeholders in their immediate vicinity who may leverage a positive influence, they are generally unaware of the second- and third-degree influencers from other quar-

1. For a discussion on the relationship between humanitarian negotiation and political mediation, see the Report of the 2017 Annual Meeting of Frontline Humanitarian Negotiators, CCHN, Geneva, pp. 30-36, at <http://frontline-negotiations.org>.





ters who may have an interest in the humanitarian agenda. Humanitarian negotiators are “small fishes in a very large pond.” The proposed mapping should help the negotiation team to have a larger perspective on

the influences and trends that may help or hinder their efforts.

Since a mapping exercise involves processing more data than one would usually do on his/her own, it relies on the

greater availability of information and analysis that is possible in a team setting. The quality of the exercise resides essentially on the ability of the negotiator to reach out to other colleagues in the team as well as external

contacts to gather and analyze data on the counterpart’s network of influence. Mapping is not a one-person exercise for the negotiator alone; the extent of data accessible necessitates that it is a group effort.

## Application of the Tool

This tool presents a set of practical steps to map the role and interactions of stakeholders in a given negotiation process drawn from recent practice.

The case presented here differs from the one in previous modules in that it provides a richer political environment based on an actual situation.

### EXAMPLE

#### MAPPING THE NETWORK OF INFLUENCE OF THE GOVERNOR OF DISTRICT A

The International Monitoring Network (IMN), an international NGO monitoring the treatment of detainees, is planning a negotiation regarding access to persons detained in the police stations in District A under the authority of its Governor, a prominent political leader in the region. This negotiation of access follows allegations of ill-treatment of detainees in the immediate period after their arrest. While the Governor is known to maintain a strong grip on the justice and detention system in District A, there are numerous stakeholders at play in the context, including:

- Several humanitarian and advocacy actors, both international and local, who have been voicing their concerns on the issue of ill-treatment, including the ICRC, the Office of the United Nations High Commissioner for Human Rights, MSF, Human Rights Watch, Amnesty International, local journalists, a women's association called "Mothers of the Missing," as well as local networks of medical doctors, etc.

- Several international actors who have been supportive of the strong hand of the Governor in maintaining security and law and order. District A is a strategic geographic area for several countries. The International Military Alliance as well as the Special Forces of the neighboring Country A have deployed troops in the District to counter terrorist actions. Foreign intelligence services are training local investigators and diplomats of Country A and Country B are maintaining strong political support for the Governor.
- Many local actors involved who have been keen to maintain a strict legal and moral order and prevent the worsening of the security situation which could be used as a justification by foreign powers to justify a military intervention. These actors include tribal leaders, religious leaders, local militias, prison staff, police commander, etc.
- Private actors such as family members, friends, political observers, and others who can play a critical role in the perception of the counterparts.

All these actors exert a degree of influence on the policies and decisions of the Governor in terms of access and transparency regarding the treatment of detainees in the police stations of District A. The negotiators from IMN will need to draw a map of the network of influence of these actors.

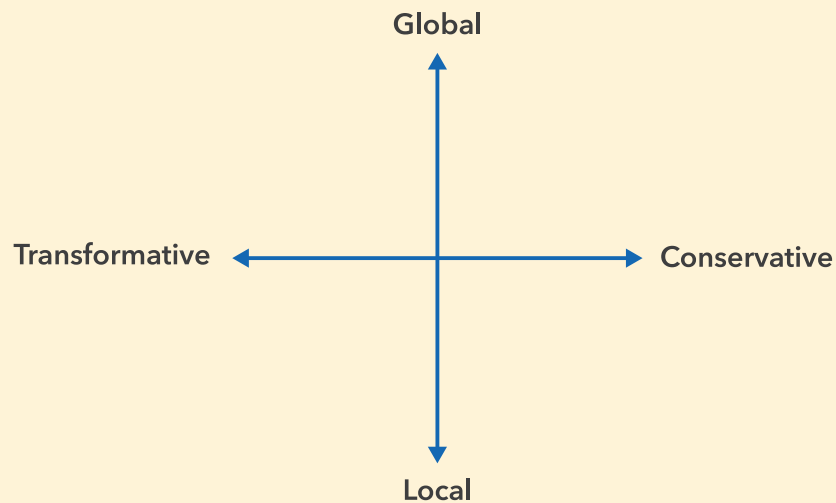
#### STEP

1

### Define the axes of the two-dimensional stakeholder map

A stakeholder mapping tool aims to assess the connections and influences among people and entities through their assigned locations on a map. It provides a set of

values to the actors placed on the respective axes of the map based on their position on each of the scales. The first step is thus to define the meaning of the axes of the map, which should reflect the most apt criteria to position the stakeholders in terms of their perspective on the issue of the negotiation and their characteristics compared to the main counterpart to the negotiation.



The proposed two axes are as follows:

**Horizontal axis:** Distributing stakeholders based on their views on the issue of the negotiation from a transformative to conservative perspective

The horizontal axis allows the differentiation of perspectives among stakeholders regarding their individual perspective **on the issue at the negotiation table:** in the case above, the access to police stations for the purpose of monitoring the treatment of detainees.

The horizontal axis follows a traditional political scale model of “left” to “right” positioning, the left part being composed of people and organizations that aim to reform or transform the current policy, the right part being composed of people and organizations that want to maintain the current policy and ensure the continuation of the current system. The farther away from the center in either direction, the more radical the perspective of the actors compared to the other stakeholders.

**Vertical axis:** Distributing stakeholders based on their identity from global to local actors

The vertical axis provides comparative values of the stakeholders’ influence based on their identity relative to the counterpart as a point of leverage around the negotiation table. Although stakeholders may converge or diverge on the particular issue at the negotiation (see the scale of the horizontal axis), they may share some characteristics **in the eyes of the counterpart** according to how they are grouped in terms of global vs. local constituencies. It is important to note that these characteristics are linked to the perception of the counterpart, in this case the Governor, not the ambition or self-perception of the actors. Hence, as much as an international NGO wants to be connected to the local population, it may well be perceived as a global actor by the Governor, situating it in the top part of the vertical axis. Likewise, as much as a local actor may wish to be perceived as connected to a global movement (e.g., promoting human rights or being part of the Red Cross/ Red Crescent Movement), it may remain a local actor in terms of influence in the eyes of the Governor, since it is composed mostly of local professionals or volunteers and connected to local constituencies. The same applies to all the actors on the map that have any degree of influence on the issue, according to how they are distributed in the four quadrants of the map. One should note that other

characteristics, such as ideological, religious, or personal, could also be used to array the actors on the vertical axis. The point is to see what identity politics come into play in the particular context and how humanitarian agencies are perceived along these lines.

Needless to say, those who have little to no influence on the main counterpart (e.g., in this case, lay people, foreign migrants, local implementing partners of large international agencies, etc.) are mostly invisible to the political eyes of the Governor. “Forgotten people” may be of great importance to the humanitarian organizations as beneficiaries of their assistance, and they may even play an important influencer role in their programming. Yet, if they do not have much impact on the counterpart, they should not be on the network map of the counterpart.

The stakeholder map should focus on the actors that:

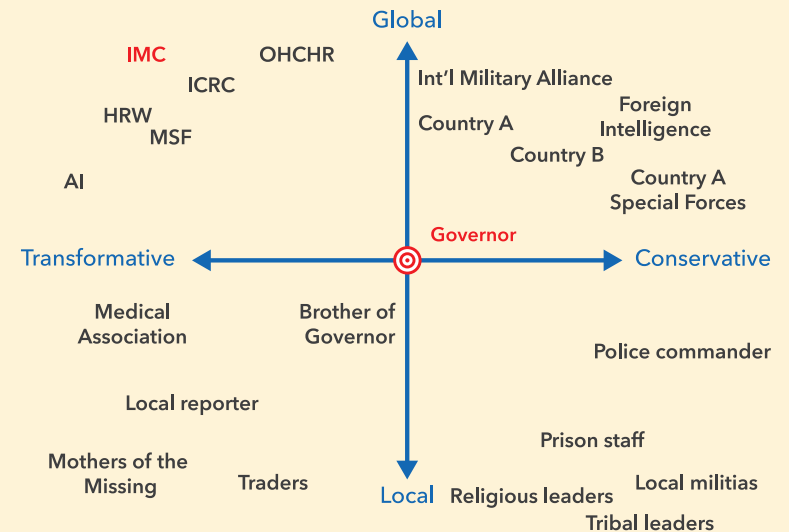
1. Have a relationship with, or otherwise exert an influence on, the main counterpart; and,
2. Have enough of a visible and continued physical presence in the context that the humanitarian negotiation can relate with them directly or through other stakeholders.

The axes proposed in the two-dimensional model have been identified as a useful generic baseline adapted to a large number of humanitarian issues. One might also consider additional axes that could be useful to establish a networking strategy—for example, creating a 3-D map. Further, there can be other dimensions qualifying each actor—e.g., a size scheme to introduce a comparative weight of influence, or color-coding characteristics such as secular vs. religious—if these are of relevance. For the sake of simplicity, this model will maintain a two-axis approach and will add a third dimension at the end of this segment.

**STEP**  
**2**

## Identify your target and assign positions of influence to all the stakeholders

At the center of the map is the main counterpart, the Governor of District A, who has key/central authority regarding the issue of negotiation. The negotiator must also place his/her own organization on the map to reflect the role that it plays in the decision-making process of the Governor and to be visible to him/her.



As may be noted, the stakeholders are distributed in the four quadrants based on their assumed position on the access of international monitors to police stations in District A in relation to the Governor and their identity in terms of perception of the Governor. While some actors are in favor of the demands of IMN, others are not. These actors are further distributed based on their local vs. global characteristics, allocated in relation to each other in their respective quadrants corresponding to their positions and characteristics.

The center of the map is entirely relative to the focus of the negotiation. In other words, each of the stakeholders on the map is at the center of its own network map. The subjective perception of the characteristics of the other stakeholders is very much linked to their respective position on the map. What is perceived as transformative or conservative by one actor may be singularly different from the perspective of another actor. (Special Forces of Country A may well perceive the International Military Alliance as a transformative actor, while the ICRC will see it as a conservative actor. Likewise, Amnesty International may see the Medical Association as a local actor, while Mothers of the Missing will see it as a more global actor.) Perception very much depends on the individual position on the map. This relative perspective becomes significant once IMN starts relating with these stakeholders to understand the entry points of the relationship from their own perspectives.

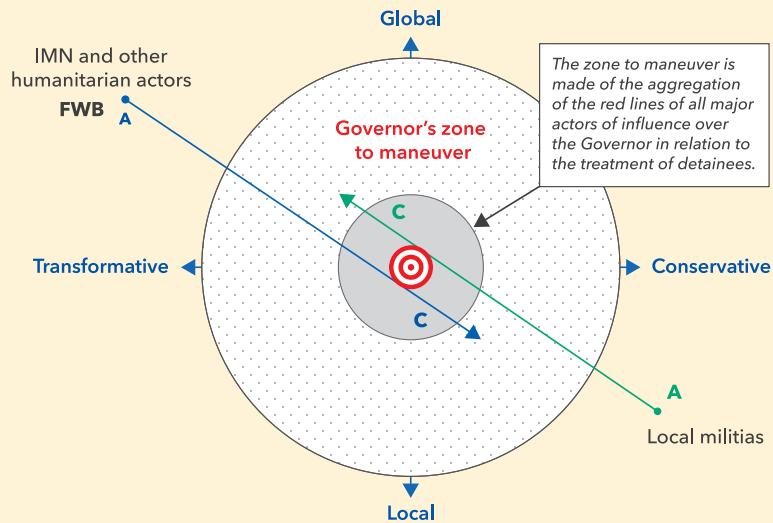
While each of the quadrants constitutes in effect a cluster of interests in the eyes of the Governor, the actors may well be in a competition with each other, to the great benefit of the Governor. The main objective of a powerful political actor in the center of a map is to maintain his/her position at the point of equilibrium among all the competing actors.

Hence, the Governor may have a tactical interest or motive to move “left” on the issue of access to police stations, as well as “north” on the role of global influencers, by granting access to IMN. Such position will:

- Come as a direct political benefit to the organization in the upper-left quadrant (Global Transformative), showing the success of the global transformative agenda on human rights;

- Come at the direct political cost of those in the lower-right quadrant (Local Conservative), who lose in terms of both influence and options;
- Be seen as a risky move by those located in the lower-left quadrant (Local Transformative) while it goes in the right direction in terms of options—yet, the position will underline the loss of local influence over the issue of access to police stations by granting this right to a foreign organization;
- Be recognized by those located in the upper-right quadrant (Global Conservative) as the Governor becoming more amenable to global influencers but appearing misguided regarding the policy of access to police stations.

For his part, the Governor will attempt to remain within the “acceptable” limits (the red lines) of all the competing actors to maintain the legitimacy of both his/her authority over the issue and point of equilibrium. In other words, as the negotiation team designs the scenarios of the upcoming negotiation, they should be cognizant of the limitations imposed by the red lines of other influential actors on their counterpart. In this case, the local militia may have stringent red lines imposed upon the Governor regarding the treatment of enemy combatants in prison, limiting the Governor’s ability to make compromises with IMN. Similarly, humanitarian actors may impose tough lines with respect to human rights and IHL that may hinder the capacity of the Governor to concur with most of the demands of the militia.



Overall, each move of the Governor toward IMN negotiators will be interpreted in political terms by all the other stakeholders and will impact their individual political relationships with the Governor. A major success of the humanitarian actors may translate into major problems for all the other stakeholders, restricting the Governor's ability to agree to sensible demands at the risk of prompting political and security risks for him/her and some of the stakeholders.

**STEP**

**3**

**Engage with the stakeholders in the four quadrants of the map in order to prepare the negotiation and mobilize positive influences**

Humanitarian demands may have serious political and security ramifications. It is critical that humanitarian negotiators engage with all the stakeholders on such concerns to determine their own agenda and maximize

or minimize the impact of the negotiation outcome on those stakeholders. Such efforts should be made visible to the Governor in order to help convince him/her that the cost of moving in the appropriate direction envisaged in the negotiation process (always within the limits set by the aggregation of the red lines of all major actors) is affordable.

There are four distinct tactics to engage with other stakeholders, depending on their locations on the map of the Governor. Assuming that the humanitarian negotiator is positioned in the upper-left quadrant, the IMN tactics will be distributed as follows:

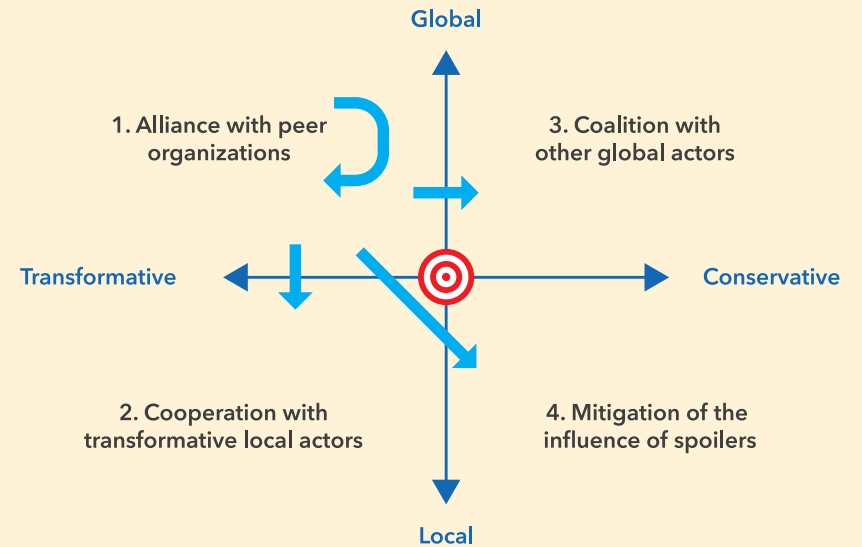


Figure 8: IMN tactical scheme to exert influence over the Governor's position

These tactical schemes involve :

**1. Alliance** with those in the same quadrant of the negotiator's agency who have a lot to gain from the negotiation process, located in the Global/Transformative quadrant.

**Actions may include :**

- Comparing notes on the allegations of ill-treatment;
- Identifying common norms of behavior for treatment of detainees in District A;
- Coordinating the targeting and timing of humanitarian interventions;
- Seeking a common plan for a review of the conditions of detention.

The objective of these interactions with IMN is to maximize the coordination among stakeholders to achieve the goal in the quadrant in full view of the Governor. Coordinating similar actors is a difficult task as it often questions the individual identity of the respective actors. One point to underscore, in view of the similarities of the messages, is that there is much more to gain by working together than by competing.

**2. Cooperation**, in the perception of the Governor, with those on the adjacent vertical quadrant across the Global/Local divide who may gain in terms of visits to the police station but also lose influence during the negotiation process, located in the Local/Transformative quadrant.

**Actions may include :**

- Providing support to local organizations in their interventions (as compared to co-opting local actors in global interventions);
- Providing technical assistance and training;
- Providing funding support to develop the capacity of local organizations.

The objective of these interactions with IMN is to support local actors in a visible way so as to demonstrate to these

actors and the Governor that IMN understands the exposure of the Governor to an increasing global influence with consequences that IMN attempts to mitigate.

**3. Coalition**, in the perception of the Governor, with those on the adjacent horizontal quadrant across the Transformative/Conservative divide who may gain influence over the Governor but lose control over the presence of foreign observers in the negotiation process, located in the Global/Transformative quadrant.

**Actions may include :**

- Participating in cultural and official events sponsored by the conservative/global stakeholders;
- Establishing a dialogue on parallel issues;
- Enhancing the collaboration on issues of interest to the conservative/global stakeholders.

The objective of these interactions with IMN is not to agree on the issue of the negotiation (e.g., options for visits to police stations), but rather to develop relationships across the option divide, i.e., on other issues so as to create bonding with other global actors in full view of the Governor. The point is to demonstrate to the conservative global stakeholders that IMN is aware of the importance of global influence, and to the Governor that IMN is eager to manage his exposure for a move toward the transformative scale.

**4. Mitigation** with those on the opposite quadrant across both divides, often referred to as the "spoilers," who have nothing to gain from IMN's access to police stations and carry a significant influence on the Governor, located in the Local/Conservative quadrant.

**Actions may include :**

- Establishing dialogue with conservative and local actors for the purpose of understanding their concerns;

- Providing support to technical projects (e.g., training, workshops) on issues of interest (e.g., forensic) in full view of the Governor;
- Personalizing relationships away from institutional constraints so as to rebuild a more amenable image;
- Developing a trustful relationship on the overarching humanitarian character of the mission of IMN in line with local values.

The objective of the interactions with IMN and conservative local actors is to mitigate the risks that spoilers may present by assessing their red lines in terms of negotiation with the Governor regarding IMN’s access to police stations and seeing the extent to which IMN representatives could alleviate the concerns of these groups.

Please note that this tactical map is made for IMN as a transformative global actor. The same scheme applies to all the other actors in their respective quadrants through inverting the tactical options. Therefore, a local transformative actor will seek to build alliances within its quadrant, cooperate with transformative global actors, build coalition with conservative local actors, and mitigate the influence of conservative global actors.

**STEP**

**4 Prioritize efforts in influencing stakeholders**

The previous three steps are part of the mechanics of mapping the actors in the political environment of the Governor in his/her role as a counterpart to IMN’s negotiation. The purpose of this last step is to prioritize the possible actions of the humanitarian negotiators and see which actors they should target in their efforts to influence the position of the counterpart. As mentioned in the introduction, investment in influencing actors must be made sparingly and consciously, i.e., the

humanitarian organization has to be careful not to spread its networking activities too thin or too intensely over the more passive actors.

Efforts to mobilize influence should target primarily actors who:

1. Are open to listening to the arguments of IMN (i.e., not so opposed to access to police stations that the meeting would be fruitless, or even aggravate the situation);
2. Are able to explain to other stakeholders the significance of IMN’s proposed action;
3. Can draw a benefit for their own position out of this explanation; and
4. Have a direct and trustful relationship with other stakeholders, ultimately leading to the Governor, based on evidence collected in the field.

The point is to establish a chain of positive influence through actors who are ranked from the most to the least supportive of IMN’s proposed visits, ending with a positive direct or indirect influence in favor of IMN toward the Governor.

Building on the current stakeholder mapping, one may color code the stakeholders as:

- A. Open and able to explain IMN interests and motives:



- B. Able to link up the trustful relationships among the actors:







Figure 9: Prioritizing the efforts of IMN in terms of humanitarian diplomacy

Based on this analysis:

1. The most trusted advisor to the Governor in terms of granting access to police stations appears to be :
  - a) His brother
  - b) The representatives of Country A
  - c) The police commander
  
2. The most able and direct transmission of positive influence on an IMN proposal seems to be :

**Track one** (four degrees): ICRC → International Military Alliance → Diplomats of Country A → Governor

**Track two** (five degrees): MSF → Mothers of the Missing → Religious leaders → Brother of the Governor → Governor



3. The least productive points of entry in this context are :

Amnesty International, Human Rights Watch, OHCHR, local reporter; although being most able to explain the demand, they do not have a trustful relationship with the Governor on access to police stations.

Tribal leaders, militias, prison staff, police commander, diplomats of Country B, Special Forces of Country A, and Foreign Intelligence are the least able to explain and probably least willing to transmit the demand for access to police stations from IMN to the Governor.

4. IMN negotiator's priority listing of contacts for its efforts to leverage influence

As a result of this analysis, the negotiator of IMN, understanding the specific perceptions of IMN by the counterparts, should focus his/her attention on the actors who have a potential positive role to play in the negotiation process, determined by:

- Who has close connections (low number of degrees) to the Governor;
- Who has the highest ability to explain IMN demands;
- Who is receptive to IMN regarding its policies and identity.

DESCRIPTION OF ACTORS AND ITS ABILITY TO EXPLAIN IMN DEMANDS	# OF DEGREES TO THE GOVERNOR	PERCEPTION OF IMN BY THE ACTOR	PROPOSED MEASURES
<b>Transformative Global - ALLIANCE</b>			
ICRC (most able)	3	- Slightly too transformative - Slightly too global	- Seek synchronicity in interventions - Seek technical support and training to follow standard approach of ICRC
MSF (most able)	5	- Slightly too global - Slightly too transformative	Propose to join efforts in supporting the Medical Association
<b>Transformative Local - COOPERATION</b>			
Local Medical Association (able)	4	Too global	Propose to organize a workshop on prison medical ethics in the local language
Mothers of the Missing (most able)	3	Too global	- Propose a dialogue on modalities of visits to detainees - Propose a workshop on cultural and religious ethics of prison conditions
Brother of the Governor (able)	1	- Way too global - Way too transformative	Try to establish a personal contact and seek a dialogue, e.g., using traders' connection
Traders (least able)	2	Way too global	- Maintain good business relationships with local providers - Engage social and cultural activities
<b>Conservative Global - COALITION</b>			
International Military Alliance (able)	2	Way too transformative	Seek a dialogue on international norms regarding counterterrorism
<b>Conservative Local - MITIGATION</b>			
Religious leaders (able)	2	- Way too transformative - Way too global	- Seek to establish a personal dialogue on ethical values of detention - Seek their participation at the workshop with the Mothers of the Missing
Police commander (least able)	1	- Way too transformative - Way too global	Seek to establish a personal dialogue and alleviate suspicions Seek his participation at the workshop with the Local Medical Association
Prison staff (least able)	2	- Way too transformative - Way too global	- Seek to establish a professional dialogue and alleviate suspicions - Seek participation at the workshop with the Local Medical Association

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool focuses on the environment of the counterparts as sources of influence on their position at the negotiation table. Building on the previous modules, it recognizes the role of humanitarian negotiators as networkers in given social and political contexts. The module provides simple mapping tools to locate and assign roles to stakeholders of the counterparts' policies that affect populations. It concludes by recognizing that humanitarian negotiators should not expect full compliance with the rules of IHL or count on the success of their negotiation. Humanitarian negotiation is akin to a political process for many counterparts. Counterparts have only a limited space in which to move within the acceptable margins of all the stakeholders. The political cost of moving toward the demands of humanitarian organizations will increase as the counterparts make compromises. Network mapping remains a critical tool to initiate a conversation with members of the negotiation team on networks of influence, with the discussion informed by the data and knowledge collected by both the team and, especially, national staff, who usually have a greater knowledge of the political ramifications in a given context.

## Module D: Designing Scenarios and Bottom Lines

### INTRODUCTION

The design of scenarios occurs when the preparatory steps of the negotiation planning process have been for the most part completed: the context has been analyzed; the interests and motives of the coun-

terpart have been surveyed; and relationships with the counterpart and major stakeholders have been established. The relational stage of the negotiation has allowed for the elaboration of a series of

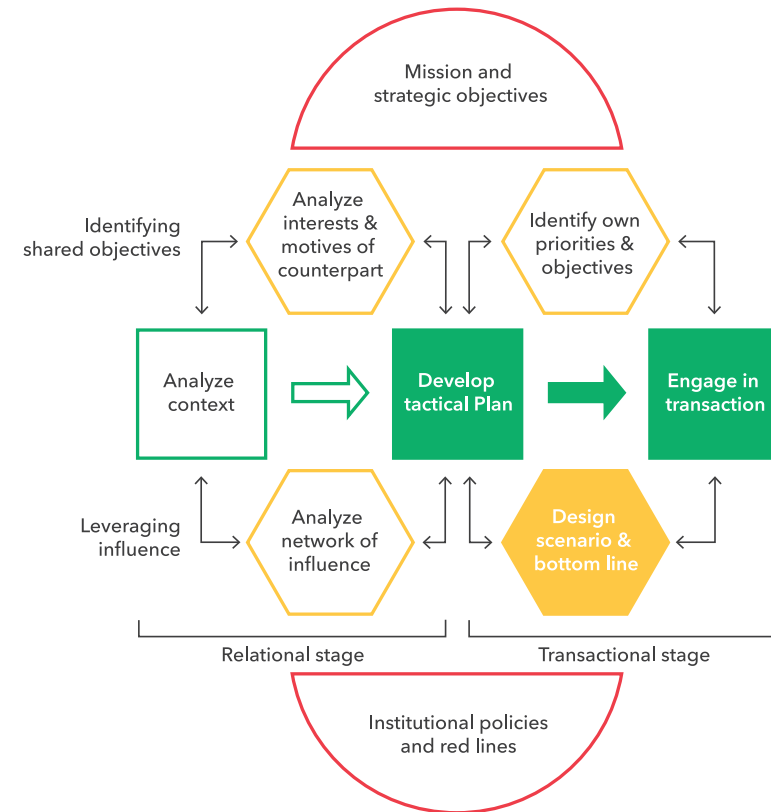


Figure 10: Identifying a set of scenarios and bottom lines to enhance opportunities of agreements

tactical steps to engage with the counterpart in a dialogue. Yet, before engaging in the final stage of the negotiation, i.e., the search for an agreeable solution, the team should consider the limits of the negotiation set in the terms of the mandate based on the legal, institutional, professional, and moral frameworks of the organization.

Though working within a limited exploratory framework, the

negotiator is tasked with finding a suitable agreement with the counterpart that will be compatible with the rules and policies of the organization. Setting up the red lines of the mandate frames the scope of options to be considered in a possible agreement. This module proposes some tools to plan the conversation on the description of red lines and bottom lines with the counterpart.



### TOOL 13: IDENTIFYING THE SHARED BENEFIT OF THE NEGOTIATION

A critical aspect of the design of scenarios is to contribute to a new mindset within and across the parties about the added value of an agreement for both sides. Arguably, any agreement could be characterized as a bundle of compromises. Unless the added value of an agreement can be measured on features other than mere gains and losses for the respective parties, it remains vulnerable to detractors who may condemn any sort of agreement as a “bad deal.” To build a sense of ownership into the agreement and its imple-

mentation, one needs to demonstrate the creation of a **shared benefit** as the main outcome of the negotiation. For example, in the humanitarian sector, this added value can come from having an impact on the situation and population or demonstrating leadership in the domain. On the side of the counterpart, it should provide for a source of benefit as well, which would most likely be related to security, economic, or political interests, such as greater control over the relief operation, or legitimacy in the eyes of their

### Defining “Red Lines” vs. “Bottom Lines”

**Red lines:** For the purpose of this Manual, **red lines are defined as the *outer limits of the possible areas of an agreement***. Red lines set the parameters within which parties to the negotiation must remain while attempting to maximise their shared benefit as a result of the negotiation. They are generally specified in the mandate given to the negotiator. The mandate is informed by the applicable laws as well as institutional policies of the organization. Red lines cannot be crossed; the cost of breaching one or more of these normative frameworks would lead to significant consequences regarding the validity and legality of the agreement between the parties and may have major implications as to the legitimacy of the negotiator and his/her own organization. A breach may also involve legal liabilities for the negotiator, e.g., regarding issues that fall under counter-terrorism legislation. Under the rules of the mandate, the negotiator is, in principle, not allowed to set or revise the red lines of the negotiation mandate.

**Bottom lines:** **Bottom lines are understood as a tactical tool at the disposal of the negotiator to set limits to the *conversation between the parties*** when options under consideration show definite rising risks and diminishing benefits of the negotiation. Bottom lines are under the control of the negotiator as a means to suspend or postpone considerations of additional options below a certain threshold of possibilities. Before considering these options, the negotiator may consult again with his/her hierarchy or stakeholders in the process. The results of the consultation may impact the location of the bottom line of the negotiation and its scenarios.

own hierarchy or constituency. Multiple benefits can co-exist in the same agreement. The humanitarian negotiator and his/her team should therefore undertake

an assessment of the interests and values of the counterparts as well as their constituencies to find the right point of connection for the shared benefit.

For the humanitarian organization, the starting position of the negotiation sits at the top of the organization's iceberg, identified as the ideal outcome of the negotiation, where the benefit of the agreement for the humanitarian organization is maximized with little to no compromise required. However, as attractive as this position may look in absolute terms, it remains unrealistic since it does not take into consideration the interests and motives of the counterpart and does not involve any shared benefit.

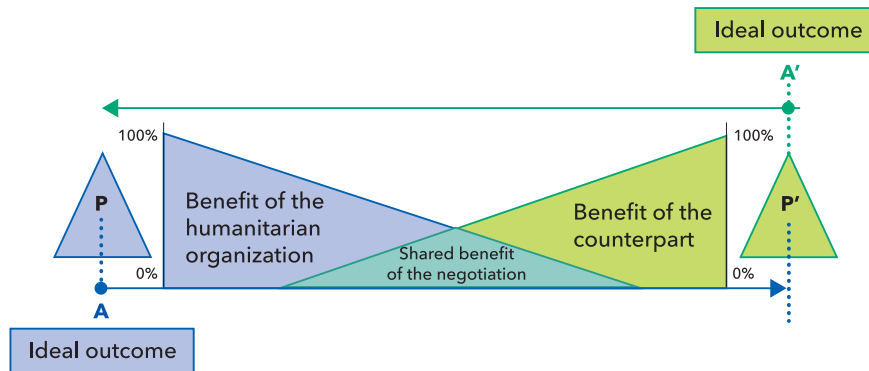
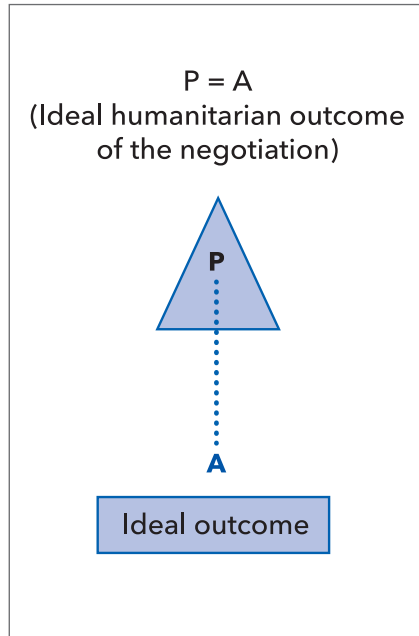


Figure 11: Zero-sum game of the benefit of the parties to a negotiated agreement illustrating an area of shared benefit

As compromises to the “A” position are being considered (i.e., gradually moving away from the ideal outcome for the humanitarian organization):

- The potential benefit of the agreement for the humanitarian organization decreases up to a given point where there is no benefit to agree to a particular position.
- The same applies to the counterpart considering its compromises to A' starting point.

- Conversely, the possibility of arriving at a viable agreement increases with the flexibility of coming to an agreement within the shared benefit window, enhancing a sense of joint ownership in the agreement.

In reality, what is considered to be shared benefit is relative to the number of issues being negotiated at the same time. Most negotiations address a bundle of issues and require smoothing the angles and adding scale to the shared benefits of a joint approach.

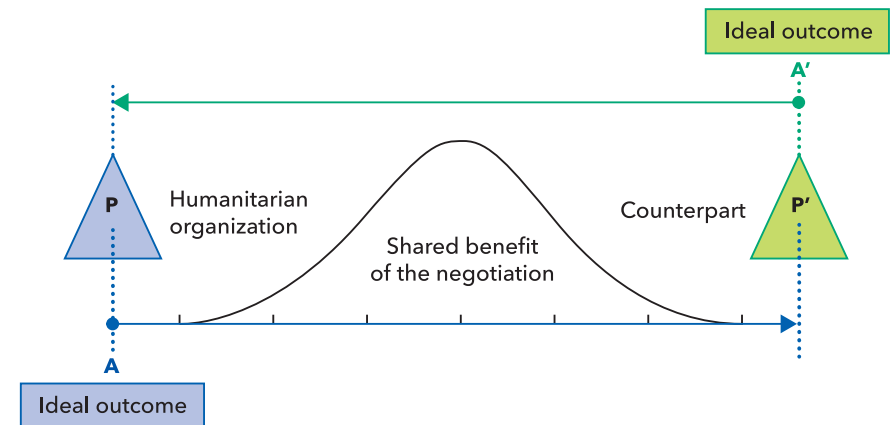


Figure 12: Considering the shared benefit

However, although compromises generate shared benefits for the parties to the negotiation at first, they also come with diminishing returns later on. The maximum shared benefit resides at the point where both parties have maximized their mutual interests in the issues on the negotia-

tion table. Beyond that point, the discussion again becomes a zero-sum game—the greater the gain on one side, the lesser the benefit will be on the other, bringing down the shared benefit of the parties and sooner or later reaching the limit of the benefit of the most compromising party.

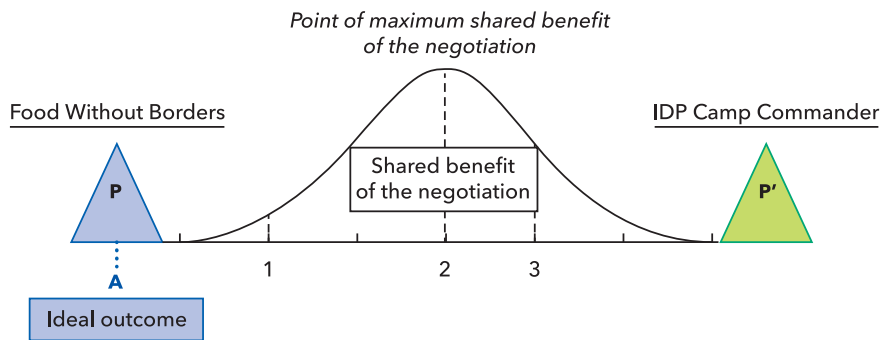


Figure 13: Considering the shared benefit of various options for agreements

Taking as an example Food Without Borders (FWB) negotiating access to an IDP camp in order to address the food insecurity of the affected population:

- **A = Ideal outcome of the negotiation:** Food Without Borders wishes full access to the affected IDP population

in the camp with no presence or control by the military during the food distribution. This ideal position represents the best way to ensure the strict humanitarian character of FWB's food assistance to the IDPs, recognizing the role of FWB as a neutral and impartial entity.

- **Potential compromise "1":** FWB wishes full access to the IDP camp with a limited presence of the military in the camp during the distribution process.

This first degree of compromise appears to be a quick gain for FWB with the most benefit on the humanitarian organization side and limited cost on the humanitarian character of the assistance. The presence of the military is tolerated as long as they are not visible during the distribution process.

- **Potential compromise "2":** FWB wishes full access to the IDP camp with the presence of the military actively monitoring the distribution process led by FWB.

This second degree of compromise is a somewhat more precarious position for FWB, affecting the perception of independence and neutrality of the FWB distribution process, yet not infringing on FWB's capacity to distribute food to people in need. It also provides a benefit to

the camp commander by ensuring an acceptable and visible level of control over the food distribution operation.

- **Potential compromise "3":** Due to insecurity, FWB is ready to accept limited access to the IDP camp with a military escort. Providing a list of the beneficiaries to camp authorities is further required from FWB prior to the distribution process.

This third degree of compromise is much harder for FWB to agree with as it represents a significant compromise to the neutrality and independence of the organization, although not directly pre-empting the capacity of FWB to distribute food to all IDPs in need. However, FWB may not have the means of verifying that the assistance has reached those most in need. The benefit of the negotiation starts to decrease to a point where it may become unpalatable for FWB.

In other words, compromises come with a cost represented by the risks the compromises pose

to the integrity of the humanitarian organization and its operations. As the humanitarian

negotiator contemplates compromises, s/he should evaluate the rising risks for the organization.

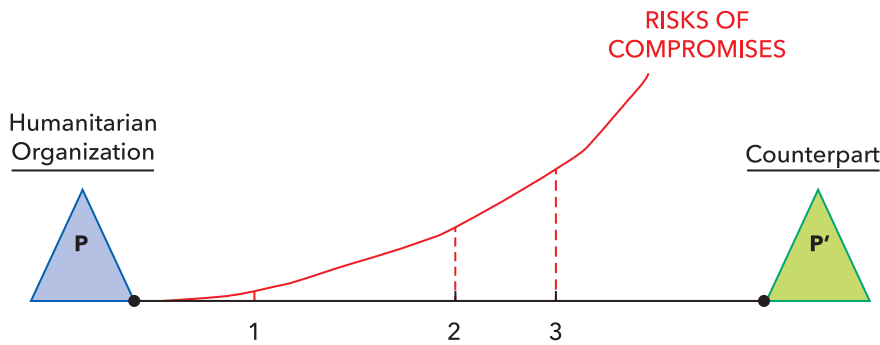


Figure 14: Assessing the rising risks of compromises for the humanitarian organization

The sources of these risks involve issues such as (but not limited to):

- Respect of humanitarian principles
- Security risks for staff
- Protection of the affected population
- Other legal norms (e.g., counter-terrorism legislation)
- Efficiency of distribution and other professional standards
- Reputational risks for the organization.

These risk sources are often analyzed as part of the organization's mandate and/or institutional policies that provide the necessary framework for the negotiation (see Module B: Framing the Mandate of the Negotiation into Institutional Policies in Section 3

**Red).** They are also an important topic of discussion with the negotiator's support team.

Although all these options (1, 2, 3) may be palatable under the mandate of the humanitarian negotiator, there is a definite point where the negotiator may wonder if the benefit of the additional compromise is worth the additional risk. This natural bottom line of the negotiation (point B) is the point of equilibrium that represents a line set by the negotiator prompting a change in the dynamic of a conversation in which the negotiator may find himself/herself pressured into an

increasingly compromising and risky posture while the shared benefits and ownership of the negotiation keep shrinking. A negotiation scenario on access to a conflict or insecure area is usually centered on absorbing more risks in terms of integrity of the organization and its personnel while observing a varying return in terms of humanitarian outcomes. The bottom line is situated when and where the diminishing return crosses the rising risk, calling for a pause in the dialogue with the counterpart to allow some reflection with the team and reconsideration of further compromises with the mandator.

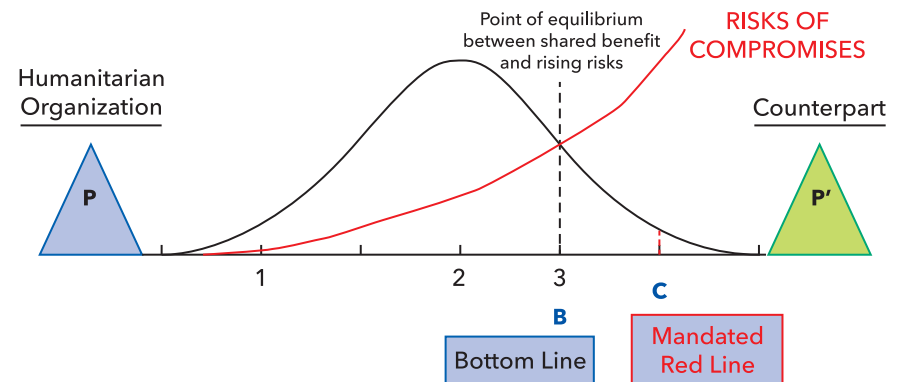


Figure 15: Identifying the point of equilibrium between the rising risks and shrinking shared benefit of the negotiation as the natural "bottom line" of the humanitarian negotiator

As mentioned above, identifying a bottom line is a matter of evaluating the benefit/risk ratio of a particular negotiation in a specific context. Red lines are different: they are the product of institutional policies across contexts and are established at the outset of the negotiation process as fixed limits to the mandate of the negotiators. They are based on a doctrinal understanding of the tolerance of an organization to a set of compromises and associated risks. If they can be slightly modified in a dialogue with the mandator, they are unlikely to be moved significantly, even with the benefit of a high humanitarian return in a specific negotiation.

It may happen that a red line is set at a higher level than the point of equilibrium between shared benefit and rising risks as **a matter of policy** for the organization. For example, considering that military escorts are prohibited as a matter of institutional policy at the ICRC, the fact that many more lives could be saved through access with a military escort is unlikely to have much impact on the red line of the organization in a particular negotiation. Such a decision preempts a discussion between the parties on the risk/benefit of military escorts as this option has been discarded from the outset in the mandate. Further, there is also no point in having a bottom line on this issue.

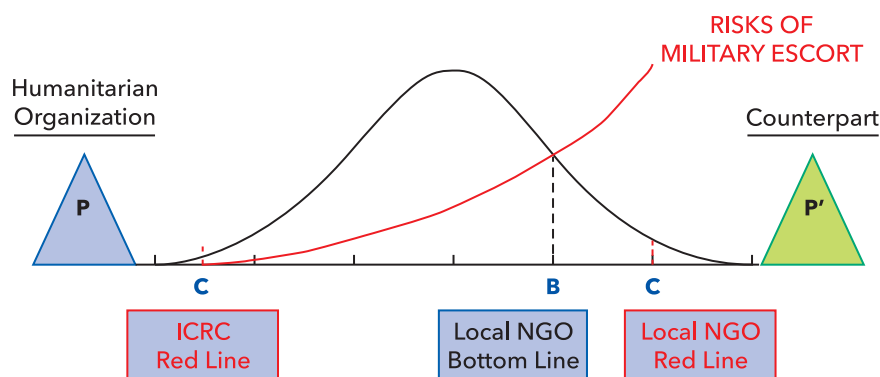


Figure 16: Comparing the red lines between two organizations

However, a military escort may be seen differently by a local NGO implementing a government program than by the ICRC. In such case, a local NGO may be better suited to create a shared benefit with the counterpart than other international organizations that are subject to more restrictive institutional policies. The counterpart could try to pressure the more restrictive organizations into greater compromises on the basis of the tolerance to risks of the other organization. Yet, the negotiator with the more re-

strictive organization should not buckle to the pressure. The mandator and the hierarchy of the organization have already opted for the prominence of the reputation and integrity of the organization **as a matter of policy** over the long run, even at the cost to the affected population over the short run. The negotiator is not responsible for that policy decision and does not have permission to engage on it.

*Assessing one's own red line and bottom line*

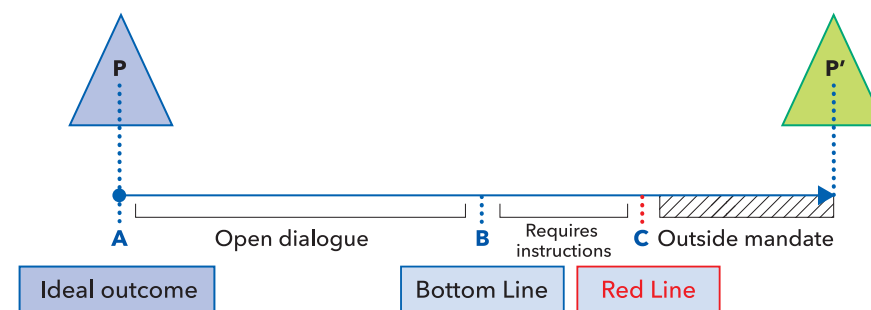


Figure 17: Distinguishing bottom line and red line in the common shared space of a humanitarian organization



Referencing the bottom line, the humanitarian negotiator can, without breaking the relationship, inform the counterpart that they will need to pause the conversation, with the negotiator pulling out of the open dialogue to measure the actual risk/benefit with the negotiation team and, if needed, with the mandator. Once the new instructions are received, the dialogue may then continue to explore options up to a clear set of *red lines* (between B and C). Citing the bottom line communicates to the counterpart that the interests of the humanitarian organization in a shared agreement are diminish-



ing quickly and the mandatee is getting close to the limit of his/her mandate to negotiate; this is the point below which the humanitarian negotiator is no longer able to entertain a discussion on options. It is up to the humanitarian negotiator to determine if, when, and how to communicate the bottom line to the counterparts.

## TOOL 14: EVALUATING COST-BENEFIT OF OPTIONS

The purpose of designing a scenario is to frame a conversation between the humanitarian negotiator and his/her support team to deliberate on the various elements of the negotiation tactics.

As compared to red lines, which are derived from the mandate of the negotiator, bottom lines are tactical

tools at the disposal of the negotiation team to increase the chances of building a trustful relationship with the counterpart and maximizing the shared benefit of the negotiation, such that the negotiators on both sides can arrive at an agreement and implementation without having to refer back to an external authority. For example:

## EXAMPLE

### FWB is Required to Pay Local Laborers in Kind in the Distribution of Aid to the IDP Camp

Food Without Borders (FWB) is planning to distribute food rations to an IDP camp in District A.

The authorities of the camp require that FWB hire local security guards to assist in the distribution of the food rations. These local guards are members of the armed militia that prompted the displacement of the population over recent months. The authorities argue that the work required from the guards goes beyond their security functions. Compensation is therefore due to these guards as for any other day laborers. The authorities of the camp will not allow anyone else to work for FWB.

The local security guards want food rations as compensation for their work. Payment in cash is hardly feasible in the region and food rations are becoming the only acceptable currency.

As a humanitarian organization, FWB is committed to providing humanitarian assistance to people most in need based on its humanitarian principles.

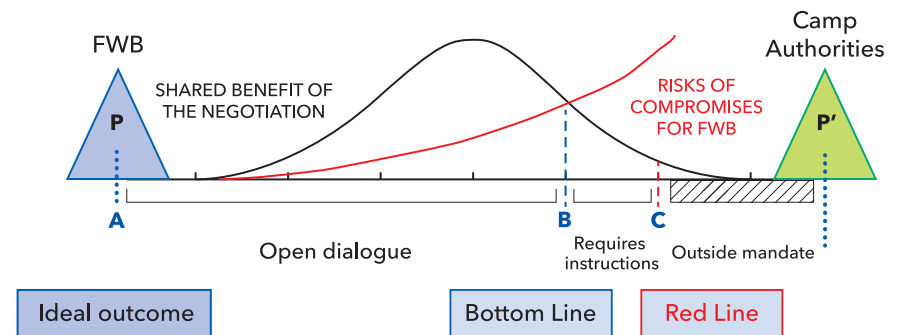


Figure 18: Distinguishing bottom line and red line in the common shared space of FWB

In line with the principles of neutrality and impartiality of FWB:

**Point A:** The ideal outcome for FWB is that all **food rations are distributed only to the affected IDP population based on their nutritional needs and that FWB can hire and pay in cash the day laborers of their choice to assist in its work in the IDP camp.**

**Point B:** The bottom line of the FWB negotiator is that **food rations should be limited to IDPs but are not necessarily dependent on their individual nutritional needs.** While not all IDPs suffer from the same level of malnutrition, general food distribution, with its possible conversion into cash by IDPs with limited or fewer needs, is seen as an acceptable risk. **Regarding the hiring of local guards, FWB could consider including their family members in need as part of the food distribution process, even though they are not recognized as formal IDPs. Direct distribution to the local guards, however, is not permitted in view of their visible connection with**

**the armed militia.** The compromises outlined here, also show diminishing benefit for FWB as the connection between food assistance and the needs of the IDPs is getting lost.

**Point C:** The red line according to the mandate given to the negotiator by FWB hierarchy is that **FWB can only distribute food rations to the IDP population and other people in need. It cannot use the food rations as a means of payment of laborers. It further cannot provide any direct assistance to armed personnel.** This position is consistent with the institutional policy of the organization prohibiting the use of food rations as a cash substitute for commercial transactions or compensation for labor. The concern of FWB across its operations is that food rations used as currency could appear to be a diversion of food aid and then be sold to the IDPs, creating a commercial interest in preventing the food from reaching those most in need, and making a profit for the sellers out of the IDPs' malnutrition.

It is important to note that any compromise in the area between B and C, below the strict targeting of IDPs, will require further instruction from the mandator. FWB is rightly concerned about the reputational risks attached to food diversion and the fact that security guards may belong to a local militia active in the conflict, raising new concerns regarding the principle of neutrality. Discussing food distribution to family members of the security guards is below the bottom line (point B) but could be above the red line (point C) if

the families of the guards are food insecure. In such case, the negotiator should refer to the mandator the request for food distribution to the guards, while explaining to the counterpart the limitations on FWB regarding the terms of the food distribution.

*Assessing the counterpart's bottom line and red line*

Based on the previous analysis of the interests and motives of the counterpart, one can also draw the perspective of the authorities of the camp on the same scale.

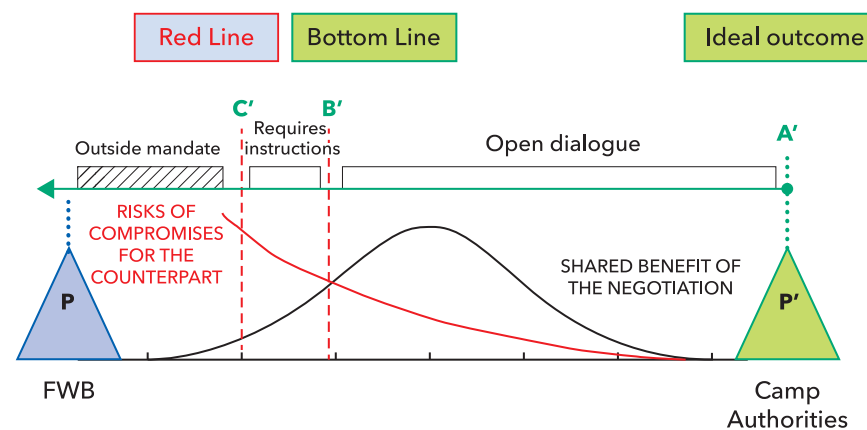


Figure 19: Distinguishing bottom line and red line in the common shared space of a counterpart



The reading of the situation in the case above could look like:

- The **ideal outcome** of the Camp Authorities (point A') is to ensure the highest level of control over FWB's presence and operation in the camp, requiring FWB to hand over distribution of the food to the camp guards and let them manage the process for a payment in food rations.
- The **bottom line** of the authorities of the camp (point B') could be to allow FWB to manage the food distribution in the camp but only through the hiring of local security guards in the camp and providing their compensation in food rations. Any com-

promise below this point will require a consultation with the camp commander and the leader of the militia providing the security guards.

- The **red line** of the authorities of the camp (point C') could appear at the point where they entirely lose control over the food distribution in the camp and become unable to share some benefit with the local security guards and their families as a side benefit for their work and allegiance.

Discussion of the modalities of payment to the guards proposed by FWB, e.g., to distribute assistance to the members of the local guards' families in need and not to the guards directly, is probably

above the red line of the camp authorities and the bottom line of their negotiator. The negotiator may probably agree on a scheme of distribution of food to the families of the guards, in exchange for which FWB will

have full access to the camp with limited military presence.

In view of this assessment, the negotiator of FWB is in a position to draw the most likely scenarios of the specific negotiation:

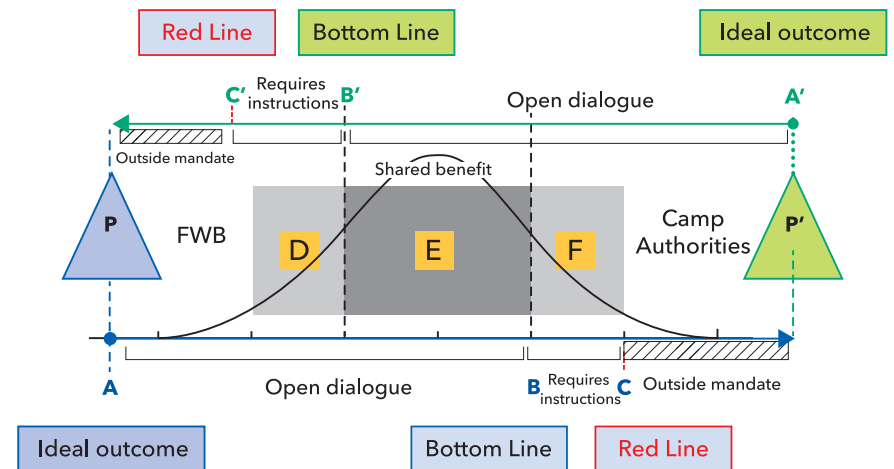


Figure 20: Integrating the parties' perspectives into a common scenario

Once the two lines of arguments are drawn, one can set the possible scenarios of the discussion.

### Common Shared Space “D” + “E” + “F”

This is the shared space of potential agreements between the two sets of red lines, composed of:

- **Area “D”:** Area of potential agreement favoring mostly FWB but requiring the Camp Commander to refer back to his/her mandator;
- **Area “E”:** Area of potential agreement favoring both sides within the limits of the respective bottom lines; and,
- **Area “F”:** Area of potential agreement favoring mostly the Camp Commander but requiring the FWB negotiator to refer back to FWB hierarchy.

Within Area “D”, FWB may be pushing the conversation toward a more principled approach at the cost of the relationship with the counterpart as

well as being likely to take more time. FWB negotiators could insist that :

- the security guards may take part in the distribution, but only as observers—they cannot handle the food rations;
- the families of the guards can receive food rations, but they will need to register with FWB, the same as everyone else.

This scenario implies that the counterpart is likely to require new instructions to agree and may raise the possibility of the politicization of the negotiation by the Camp Commander.

Within Area “E”, the two sides may come to an agreement within the mandate (the space between the two respective bottom lines, B and B’, as a shared space of open dialogue). In this case, the security guards can take part in the distribution and their families can receive additional rations to the extent they are food insecure.

Within Area “F”, the camp authorities may require, as a pragmatic step in the operation, that the food rations to be distributed to the families of the guards be handed over directly to the guards as a form of payment. This scenario implies that the FWB negotiator will have to refer back to the FWB hierarchy as it involves handing over food rations in a visible way to security guards who are also members of the local militia.

### Other scenarios

The actual negotiation can be hard to predict. The scenarios mentioned above are based on the information collected so far. What seems clear is that scenarios that would not involve the security guards or full control of the distribution of aid by security guards are off the table. So, there is no point in pondering these possibilities for too long if FWB or the camp authorities are unwilling to move from their principled positions, affording little hope of finding an agreement.

### On the Role of Stakeholders

A final point in drawing scenarios should be made regarding the role and influence of stakeholders. The position of the counterpart in a negotiation is as much the product of its relationships with influential stakeholders as of its interests and motives. Taking that into account, one should acknowledge that the actual scenarios of a negotiation are often a derivative of the objectives and tactics of other major stakeholders. In our case, the camp authorities may not be entirely free to set their red lines in view of the potential influence of armed militias supplying the local guards. The same applies to FWB, which remains very much under the influence of its donors and other humanitarian agencies. As one has analyzed the mapping of influence of the counterpart, one should also note that red lines of other actors, in particular, “spoilers,” may impact heavily on the openness of the counterpart to compromises. (For a more detailed analysis, see Section 1 *Green Network Mapping and Leveraging Influence.*)

## Application of the Tool

This segment presents a set of practical steps to design a scenario for the negotiation process based on an analysis of the bottom line and red line of a negotiation. It examines the case brought up in the previous modules regarding the detention of staff to exemplify the steps to be followed in this process. The case is presented

here as a point of reference. As a result of the analysis in the previous modules which identified the priorities and specific objectives of the parties, the negotiator should be in a position to design the scenarios of the transaction, drawing the necessary bottom lines and recognizing the reciprocal red lines.

### EXAMPLE

#### HEALTH FOR ALL'S SURGICAL TEAM RETAINED IN A LABOR DISPUTE

Nine staff members of Health for All (HfA), an international health NGO, have been prohibited by tribesmen from leaving their residence in District A for almost a week following a disagreement between HfA and the guards of the local HfA hospital. This dispute arises from HfA's plans to close the hospital due to decreasing war surgery needs in the region. The guards, who belong to an important tribe in the region, claim that the hospital should remain open and their compensation be paid as there are still considerable emergency health needs in the region. The guards, supported by tribal representatives, further argue that they put their life at risk for several years to maintain the access of

patients and staff to the hospital during an especially violent conflict. Some guards even lost their life in this process and others sustained long-term disabilities. Families of the guards wounded or killed during the conflict further request long-term monetary compensation for the loss of income before HfA pulls out of District A.

For now, the hospital is barely operational, with several emergency needs left unattended. Tribal leaders are increasingly concerned about the health situation in District A and insist that the hospital remain open. Families of patients have been complaining about the lack of services in the hospital.

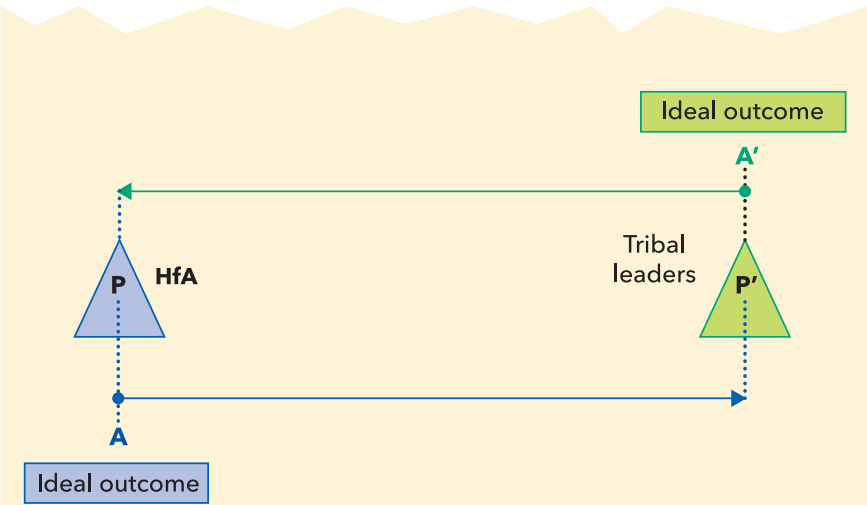
The tribal leaders have agreed to meet with HfA representatives to look for a practical solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene without the support of the tribal chiefs.

### STEP

1

#### Lay down the best possible outcomes on both sides

The negotiation team should first lay down the starting positions of the negotiation on both sides showing the ideal outcome of the process according to their individual perspectives. These positions were identified in the previous modules on the icebergs.

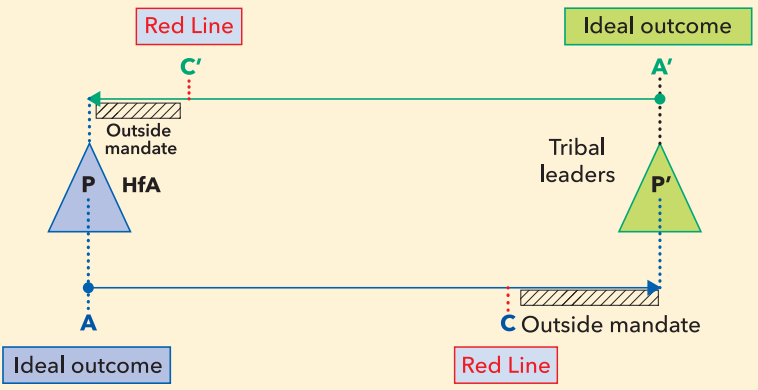


IDEAL OUTCOME OF HfA (A)	IDEAL OUTCOME OF TRIBAL LEADERS (A')
<ul style="list-style-type: none"> <li>HfA insists on the immediate release and evacuation of all HfA staff from District A.</li> <li>Tribal leaders must guarantee the safety and well-being of HfA staff in the meantime.</li> <li>HfA scales down its health activities in the region and hands over the hospital to a third party, including obligations toward the guards and their families.</li> <li>Meanwhile, HfA engages in consultation to rebuild trust with the community.</li> </ul>	<ul style="list-style-type: none"> <li>Tribal leaders insist on keeping the hospital fully operational under HfA or equivalent.</li> <li>HfA should maintain the employment of security guards from the tribe.</li> <li>Families of wounded and deceased guards should be properly compensated.</li> <li>Detained staff will be released only when guarantees on the above are provided.</li> <li>Meanwhile, emergency needs should be addressed by HfA.</li> </ul>

**STEP**  
**2**

**Identify the red lines on both sides as a precondition for an arrangement to be agreed to**

The negotiation team should first consult with their mandator on the red lines of HfA regarding each of the issues on the table. (For a discussion on the sources of red lines, see Section 3 **Red** detailing the institutional policies as the origins of red lines.) Once these have been set, they should deduce the red lines of the counterpart on the same issues.



SOURCES OF RED LINES	RED LINES OF HfA (C)	RED LINES OF TRIBAL LEADERS (C')
Principles and norms	Tribal leaders must respect the independence of HfA.	HfA must respect the role of local authorities
Legal norms	Tribal leaders must commit to the prompt release of staff	HfA must guarantee access to health care
Institutional policies	Duty of care: Tribal leaders must commit to the security of HfA staff if it is to maintain its operations	As a health NGO, HfA must be transparent in its planning of operation.
Professional standards	Parties must ensure the immunity of health staff from assault	HfA must ensure fair compensation for guards and their families
Moral and ethical values	Parties must commit to maintain proper dialogue	Patients and their family must be properly treated.

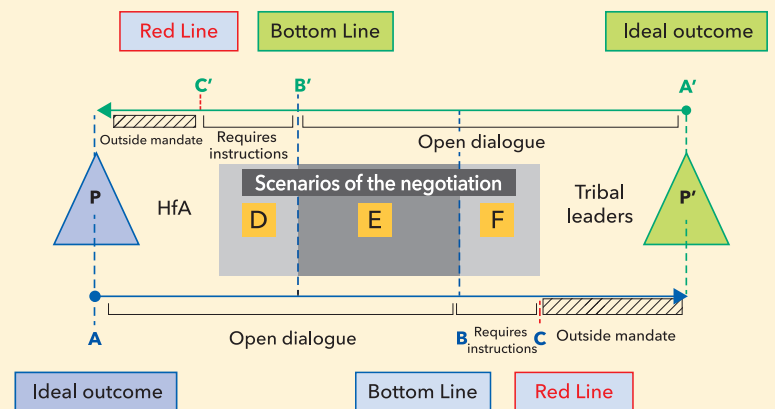
The identification of red lines is easier and faster for the humanitarian negotiators than the counterparts as the issues are part of the mandate given to negotiators and their team. In contrast, the red lines of the counterpart may take more time to discern and will arise as the counterpart reacts to the proposal of the HfA negotiator in the exploration phase of the common shared space.

STEP

3

### Identify the shared benefits and bottom lines in the space for dialogue

The next step pertains to identifying the material for a pragmatic dialogue. This material has already been a topic of analysis in Section 2 **Yellow** Module C: *Exploring the Common Shared Space* in terms of values, rationale, and position between the two icebergs.



Within the space of dialogue are the respective bottom lines that the parties will set to avoid dealing with divergent issues that necessarily increase the risks of the compromises. In some cases, the issues may have to be addressed, requiring the negotiators to go back to the mandator. HfA negotiators should focus the discussion on:

- a) the safety and security of staff as a way to prepare for their release;
- b) ensuring that the hospital can promptly return to normal functions;
- c) a process to undertake a consultation on the health needs in District A;
- d) sequencing the release of the staff in accordance with the above points.

Avoid discussing other points as a bottom line until progress has been made on the above. If the counterpart insists on discussing :

- i) continued employment of guards,
- ii) long-term operations of the HfA hospital, and
- iii) compensation for the families of the guards,

the negotiator will need to consult with the mandator. These issues are not off the table but will require new instructions. The resulting analysis is presented in the following table.

TYPES OF NEGOTIATION	WITHIN BOTTOM LINES (TO BUILD ON) AREA E	OUTSIDE BOTTOM LINES (TO AVOID IF POSSIBLE) AREAS D AND F
Values-based/ Political	<ul style="list-style-type: none"> <li>• The welfare of the community is of concern to both sides, in particular in view of the rise of communicable disease.</li> <li>• Both sides also share concerns for the well-being of the families of guards wounded or killed on duty in recent years.</li> <li>• Both sides want to find a solution to this unfortunate situation as it questions their reputation in the country, affecting their leverage in other relationships.</li> </ul>	<ul style="list-style-type: none"> <li>• The legitimacy of tribal leaders in the eyes of the community is not a primary concern to HfA.</li> <li>• Likewise, the accountability of HfA to its foreign donors is of limited interest to tribal leaders.</li> <li>• The humanitarian character of the mission of HfA, in terms of proximity, neutrality, impartiality, or medical ethics, is not a particular concern for the tribal leaders.</li> <li>• Continued employment of the guards is not a core mission of HfA.</li> <li>• In the local culture, holding staff is a legitimate way to draw the attention of leaders.</li> </ul>

TYPES OF NEGOTIATION	WITHIN BOTTOM LINES (TO BUILD ON) AREA E	OUTSIDE BOTTOM LINES (TO AVOID IF POSSIBLE) AREAS D AND F
Professional	<ul style="list-style-type: none"> <li>• The safety and security of staff is a common goal of both sides.</li> <li>• Both sides appreciate the importance of evidence-based decision making, ensuring objective policies in terms of community health.</li> <li>• The announcement of the closure of the HfA hospital without notice and prior consultation was probably not the best way to proceed.</li> <li>• Greater consultation with the community and the tribal leaders is part of the solution.</li> <li>• It is important to restore the activities of the hospital and ensure the integrity of its staff and premises.</li> <li>• It is important to assess the rise of communicable disease in District A.</li> <li>• It is important to assess the vulnerability of families of injured guards and guards killed on duty in recent years.</li> </ul>	<ul style="list-style-type: none"> <li>• Health care is a public service. By working in this domain, HfA may have forfeited part of its decision-making autonomy to local leaders and community.</li> <li>• HfA is a charitable organization accountable to its board and donors.</li> <li>• The presence and roles of local law enforcement and authorities vs. tribal leaders in this matter are problematic.</li> <li>• Tribal traditions should be both the governing standard of labor relations between HfA and its local staff and a measure of the liabilities of HfA toward the employment of guards and the compensation of the families of injured or killed guards.</li> </ul>



TYPES OF NEGOTIATION	WITHIN BOTTOM LINES (TO BUILD ON) AREA <b>E</b>	OUTSIDE BOTTOM LINES (TO AVOID IF POSSIBLE) AREAS <b>D</b> AND <b>F</b>
Professional	<ul style="list-style-type: none"> <li>HfA as a community-based employer should look into the impact of closing the hospital on the vulnerability of local staff.</li> <li>It is important to de-escalate this situation and resume normal operations to mitigate reputational risks on both sides.</li> </ul>	
Technical	<ul style="list-style-type: none"> <li>Emergency medical needs should be addressed promptly, and staff should be allowed to return to work.</li> <li>Tribesmen should withdraw from the perimeters of the residence in order to allow staff to go back to work when necessary.</li> <li>There is no need to rush into a decision on the closure of the hospital. Further consultation should be undertaken.</li> <li>Assessment of the vulnerabilities of staff to the potential redeployment of HfA assets should be undertaken.</li> <li>HfA will seek greater support on communicable disease in the region.</li> </ul>	<ul style="list-style-type: none"> <li>HfA cannot guarantee continued employment of local staff.</li> <li>HfA cannot be seen as carrying out the responsibilities of the health authorities of District A.</li> <li>Tribal leaders cannot accept the closure of the hospital. Parties should find a way to keep the hospital functional under HfA.</li> <li>Tribal leaders are not the police force in District A. They cannot guarantee the full safety and security of staff.</li> <li>Guards will not forfeit their right to full unemployment compensation.</li> <li>Families of guards will not forfeit their right for compensation from HfA.</li> </ul>

STEP

4

## Discuss the preliminary script with the negotiation team

The final step is to create a script for entering into the transaction process. As the negotiator from HfA prepares the first messages and encounters, the team may consider the model introduced in Section 1 **Green** on preparing and managing the transaction stage of the process:

- a) clarify the terms of the transaction;
- b) create a conducive environment for the transaction; and
- c) address the human elements of the transaction.

In terms of substantive content, one may consider designing messages along a tier system, underscoring:

**Tier 1:** Issues easily agreed to since they are at relatively low cost and high benefit for both the humanitarian organization and the counterparts, can serve to build a relationship with the counterparts, and can set a positive tone for the negotiation by addressing some of the inner motives.

**Tier 2:** Issues on which an agreement comes at both some cost and some benefits for the counterparts and/or the humanitarian organization. The points of agreement can be used to establish the basis of a rational and fair distribution of cost/benefits.

**Tier 3:** Issues that are more complicated to address and harder to solve because they come at a high cost for the counterparts or the humanitarian organization. These issues are often at the core of the conflict and frequently are harder to negotiate because they are close to or may fall below the respective red lines. Such issues should be kept in mind but be put aside

at first so as to avoid confrontation on the positions that might hijack the negotiation process and reinforce the negative perception of the counterparts.

Considerations for the case at hand :

TIERS	MESSAGES ABOUT IMPACT AND FEASIBILITY
<b>Tier ONE :</b> Maximizing Shared Benefit <i>(find quick wins on both sides)</i>	<ul style="list-style-type: none"> <li>• We should agree to promptly resume emergency services at the hospital.</li> <li>• It will require the release of HfA staff from the residence.</li> <li>• Tribesmen should stay away from the HfA residence.</li> <li>• It is important to keep the situation under control.</li> <li>• Therefore, it is important to keep this discussion confidential.</li> </ul>
<b>Tier TWO :</b> More demanding on both sides <i>(test limits of the bottom line of the counterpart)</i>	<ul style="list-style-type: none"> <li>• Provide security guarantees that HfA will be free to move and work at the hospital.</li> <li>• Discuss the other related issues when the hospital operations have resumed.</li> <li>• Establish a process for consultation on health needs in District A.</li> </ul>
<b>Tier THREE :</b> Complicated issues to be referred to the mandators <i>(postpone difficult issues)</i>	<ul style="list-style-type: none"> <li>• Find out the liabilities of employers in District A regarding compensation of staff and their families for injury and death.</li> <li>• Establish a clear role for HfA in terms of public health.</li> </ul>

### Multiparty Negotiation

Humanitarian negotiators are often engaged in multiparty negotiation where the terms of an agreement are influenced by an ongoing negotiation with a third party. Such negotiations create an interesting interaction between the

two or multiple processes working in parallel and at times within different timeframes. The most frequent scenario involves humanitarian access to a siege where there are two parties—the besieging party and the party besieged; all three stakeholders have expectations in terms of control over the assistance provided within the besieged area.

Such a scenario calls for an adapted model with two counterparts in an interaction. For example :

### EXAMPLE

#### SIEGE NEGOTIATION : TRIPARTITE NEGOTIATION WITH THE BESIEGING PARTY AND THE BESIEGED OPPOSITION

In Country A, most of the countryside is under the control of an armed opposition group. To gain access to the population under the armed opposition’s control, FWB must negotiate concurrently with the government of Country A and the leadership of the armed opposition as the convoys move regularly from government-controlled to non-government-controlled territory.

In this case, the government’s main interest is political, i.e., to avoid providing further legitimacy to the armed opposition through the access and distribution of food by FWB in the territory under its control. Additionally, the government wants to collect data on the population being served and obtain lists of beneficiaries.

The leadership of the armed opposition is also eager to gain politically from the distribution of FWB food as this assistance will contribute to ensuring a greater cohesion of its political and security alliances with tribal leaders in the various communities. The opposition leadership wants to control where the distribution takes place and is opposed to the transmission of

population data to the government as it suspects that these will be used for intelligence purposes.

For its part, FWB is eager to maintain its access and proximity to the population. FWB wishes to maintain control over the distribution of food to the population most in need. Since there have been concerns about diversion, it wants to monitor the distribution site. It is aware that the lists are becoming a political issue for both the government and armed group.

Such circumstances call for the application of the tools of this module, but on a tripartite scale.

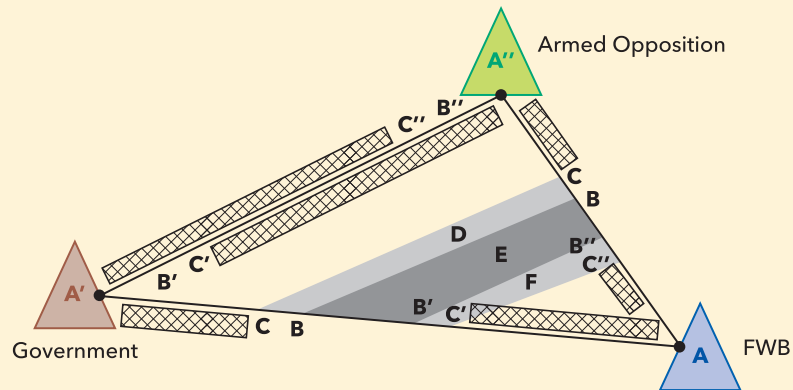


Figure 21: Tripartite planning of a siege negotiation

It is important to represent as much as possible the interdependence among the parties' positions on the same issues as well as their occupation of a shared space for options, despite the fact that the government and armed opposition may be unable to enter into a negotiation in view of the respective red lines. In such case, the terms agreed to between FWB and the armed opposition must fall within the scope of agreement between FWB and the government (D, E, F). The competency of a good negotiator is gauged by having the ability to deal with complexity in such circumstances.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides an opportunity to enter into the common shared space for the purpose of concluding an agreement with the counterpart. It recognizes the role of the mandator in setting up red lines, as well as the role of the mandatee—the negotiator—to work his/her way into the conversation with the counterpart to the most optimal output. It is understood that the optimal output may not be at equal distance from the two sides but may rely on the understanding of the shared benefit as an outcome of the negotiation and the risk threshold set by the risk culture of an organization. In such case, the use of the impact analysis may contribute to promoting a more pragmatic perspective on both sides.



## 3 | The negotiator's mandator

## Role and tasks of the negotiator's mandator



# Introduction

## OBJECTIVE OF THIS SECTION

The objective of this section is to provide a set of practical tools and methods to frame and guide a humanitarian negotiation process through the design and monitoring of the mandate of the negotiator. This process is articulated around the role of the mandator who issues the mandate to the negotiator who monitors its implementation. The mandate is informed by the mission and strategic objectives of the organization. It is also delimited by the applicable rules and institutional policies governing the activities and interactions of the organization. However, the mandate is not designed to dictate specific tasks, methods, or outcomes of the negotiation but to set a genuine space of dialogue with the counterpart, providing sufficient autonomy to the negotiator in adapting the organization's mission and goals to the reality of the field. While it provides a certain level of autonomy, the mandate should also stipulate clear lines indicating the limits of

the negotiation as informed by the institutional principles and policies of the organization.

While the word *mandate* is used interchangeably in the humanitarian world to define the mission of an organization, the role of a negotiator, and the responsibilities of a representative or agent of the organization, their objectives and actual use should not be confused.

The **mandate of an organization** refers to the overall mission and objectives of an agency granted by an *external authority*. This mandate may have been attributed by states as stipulated in an international treaty (e.g., for the ICRC and UNHCR) or as a decision of the UN General Assembly (e.g., for WFP and UNRWA). The mandate may also be issued by the governing assembly of a civil society organization or NGO (such as MSF, NRC, Oxfam, national NGOs, etc.) and then recognized by host and donor governments. The mandate of an

organization applies to all the situations and people covered by the treaty or decision within the limits stipulated in it. The terms of the mandate are therefore fixed and can be modified formally only through the adoption of new rules by the mandator. However, organizations may show some flexibility in interpreting the terms of their mandate in evolving environments, including, at times, undertaking operations that are not stipulated in their mandate, depending on the terms of their own charter.

The **mandate of a negotiator** focuses on the engagement with counterparts in a specific context to fulfill the operational objectives of the organization. This mandate is granted by an *internal authority*, i.e., the hierarchy of the organization, for the purpose of delegating the power to engage the organization in a specific negotiation process to its representatives. The limits to the mandate are set by the mandator, are internal in nature, and can be adapted to the circumstances by the mandator.

Mandates are distinct from traditional instructions given to staff in that they **provide the negotiator a high-degree of autonomy** to explore potential avenues for agreements, leverage influence, and seek the consent of the counterparts.

Regarding the **mandate as it relates to the responsibilities of representatives of an organization and its agents** (e.g., director, senior staff, head of office, spokesperson, etc.), these personnel maintain and develop relationships with external actors. They can engage the organization in discussions and transactions much like negotiators do. However, the terms of their engagement (e.g., communication line, positions, advocacy statements) are usually prepared and validated by the organization's hierarchy. Like diplomats, agents and representatives of an organization have little room to maneuver; their role is centered on the advocacy and transmission of an institutional message regarding the position of their organization on a particular issue. They are not mandated to

explore alternative avenues with the counterpart or find compromises. There may even be contradictions between the role of a representative of a humanitarian organization to defend the core values and principles of the organization and the role of a

negotiator to distance him-/herself from these values in order to explore alternatives and build trust with the counterparts.

*On the distribution of roles between the mandator, the negotiator, and the negotiator's support team*

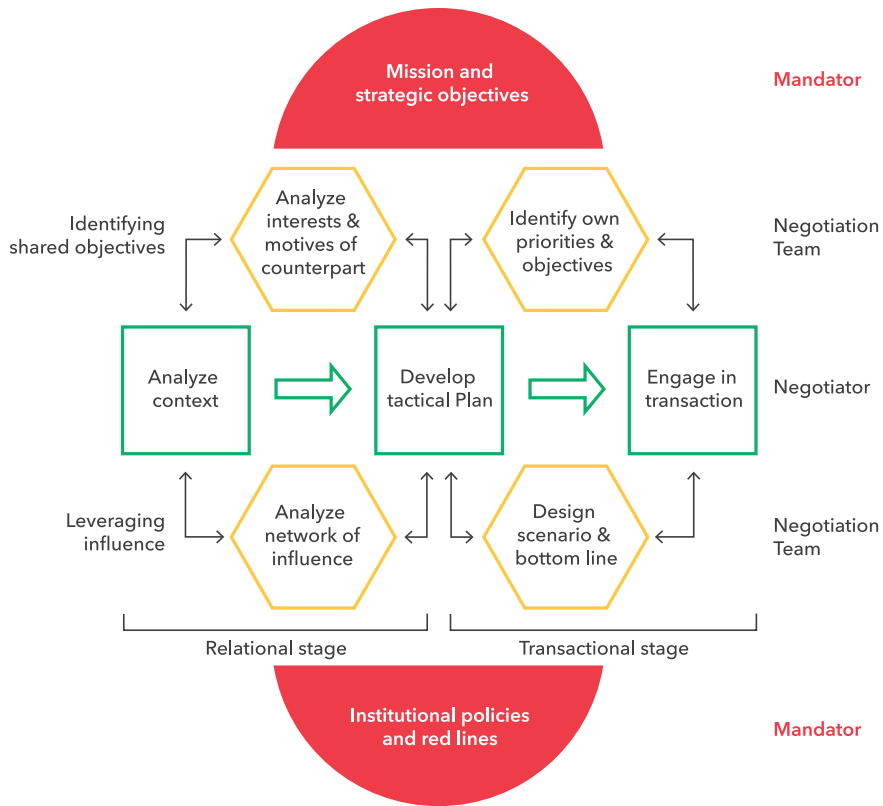


Figure 1 : The role of the mandator is to provide legitimacy to the negotiation process while ensuring compliance with the regulations and principles of the organization

There are three key actors involved in a humanitarian negotiation :

1. The mandator
2. The negotiator
3. The negotiation support team

Each role depends on the other two to fulfill their functions properly. The role of the mandator is to govern the negotiation process :

The **mandator** provides the authority to the negotiator to represent the organization. The mandate of the negotiator can be explicit in nature, i.e., clear objectives provided, or be implicit, i.e., simply part of the job description of the staff. Usually part of the operational hierarchy of the organization, the mandator is responsible for ensuring that negotiated agreements remain within the limitations set by the institutional policies of the organization (e.g., humanitarian principles, “do no harm,” etc.). (See next modules on institutional

policies.) The main tasks of the mandator are reviewed in Section 3 **Red** of this *Manual*.

The **negotiator** represents the organization in the negotiation process and may come to agreements with the parties on the terms of the presence, access, and programs of the humanitarian organization. The main tasks of the negotiators are reviewed in Section 1 **Green** of this *Manual*.

The **negotiation support team** works with the negotiator in analyzing the context, developing the tactics, and identifying the most suitable terms of an agreement to allow the implementation of these programs in a given context. The negotiator’s team plays an important role in creating a critical space where the planning of the negotiation can be discussed. This support function can be extended by mobilizing the support from peers in other organizations. The main tasks of the negotiation support team are reviewed in Section 2 **Yellow** of this *Manual*.

## Module A: Considering the Strategic Objectives and Mission of the Organization

### INTRODUCTION

The purpose of this module is to draw the key elements of the mission and strategic objectives of the organization to inform the elaboration of the negotia-

tor's mandate in a given context. It concludes with a framework to plan external communication around the negotiation process.

### TOOL 15: DESIGN OF THE MANDATE

The mandate of a negotiator is composed of:

- **General terms** involving a well-defined understanding of the mission and strategic objectives of the organization;
- **Specific terms** involving the operational objectives of the organization in the given context as well as policies and red lines delineating the mandate of the negotiator; and,
- **A delegation of authority** from the hierarchy of the organization to the negotiator to engage with the relevant authorities or groups and seek their consent or support in these operations.

In this sense, the mandate provides a framework of reference for the negotiator and the negotiation team to identify the priorities and objectives of a negotiation process as well as design the required scenarios and bottom lines. The terms of the mandate should be sufficiently broad so as to allow a space of interpretation facilitating the adaptation of the strategic objectives of the organization to the reality of the operations. At the same time, it must be reasonably detailed to ensure the alignment of the negotiation plan with the core values and norms of the organization.

It should be noted that humanitarian staff may be fulfilling different roles on separate negotiation processes at the same time. Hence, the head of a local office may be mandated by the country director to negotiate with the governor of the district about access to a camp while he/she may also be part of the support team of a colleague negotiating access in a different district. This same staff may also be the mandator of a local staff negotiating the provision of medical assistance to the local hospital. These three roles, as described in this *Manual*, encompass distinct responsibilities and interactions.



To help define the role of the mandator, this section will review, in turn, the identification of the strategic objective of the negotiation as well as the cost/benefit of the institutional policies, both elements framing the negotiation process through the mandate and the relationship with the mandator.





### General terms of the mandate

Field practitioners recognize that the strength of humanitarian negotiators is directly connected to the clarity of their mission and the strategic objectives of their organization. The clearer the mandate, the stronger the leverage the negotiator will have in the dialogue with the counterpart. Conversely, if the mission and strategic objectives of the organization are vague or uncertain, it will be difficult to build the necessary trust and explain the rationale under which the counterpart should be persuaded to engage and make compromises.

The clearer the mandate of the negotiator, the more able the negotiator will be to build a relationship based on trust with the counterparts and to find practical solutions.

The mandate is therefore a critical asset for the negotiator to make a clear case in the negotiation process. The responsibility of clarifying the strategic objectives of the negotiator is with the operational hierarchy of the organization.

### Specific terms of the mandate

While the general terms of the mandate are applicable to a number of situations encountered by the organization, the negotiations are issue- and context-specific, i.e., they require negotiating arrangements to address specific needs under the control of selected counterparts within a given context. The specific terms of the mandate are generally considered to be *confidential* between the mandator and the negotiator, and already include a selection of operational objectives and identify areas of potential compromises, taking into account the potential cost and reputational risks. These terms are stipulated to frame the conversation between the negotiator and the counterpart, not the final terms of the agreement. They should remain privileged information between the mandator and the mandatee (the negotiator). The specific terms of the mandate may be very close or at times identical to the priorities and objectives identified by the negotiator and his/her team in a specific negotiation process (see Section 2 **Yellow**). They may also be quite different, depending on the context, the common shared space with the counterparts, and the red lines of each side.

Building on an example related to the mobilization of children, the mandate of the negotiator of Children Above All (CAA), an international NGO devoted to the protection of children in conflict, may look like this:

COMPONENTS OF THE MANDATE	DESCRIPTION
1. <b>Core Values and Mission of CAA</b>	All children should be free from threats against their life and dignity. The mission of CAA is to protect children against all forms of abuse in armed conflict.
2. <b>Strategic Objectives of CAA to address the mobilization of children</b>	Poor children are most vulnerable to mobilization by the military, due to their family's belief in the educational mission of the military. Yet, children are the group most exposed to abuses within the military. CAA's strategic objective is to work with the government, families, and children in finding alternative avenues for the development of children in view of the impact of mobilization on the well-being of children.
3. <b>General Terms of the mandate of the negotiator in terms of mobilization</b>	The organization is engaged in finding practical ways to restrain the enlisting of children into the military or into armed groups. The CAA negotiator is mandated to work with the authorities in finding long-term and sustainable solutions for the demobilization of children.
4. <b>Specific Terms of the mandate of the negotiator in Country A</b>	In Country A, the recruitment of children seems related to national pride and the inability to pay for school. The CAA negotiator should engage with the national authorities in finding alternatives to the recruitment of children from the poorest communities, such as opening dedicated academies under the control of the military for the reintegration of demobilized children.
<b>Priorities and Objectives of the Negotiation with the Chief of Staff determined with the negotiation team (see Yellow Section)</b>	Dealing with the Chief of Staff of the Military, the negotiator intends to draw his-attention to the detrimental impact of the mobilization on children of the affected communities and to find practical ways to demobilize the most vulnerable children (starting with the youngest groups) and support educational opportunities for these young children in their communities with the support of the military.

### A delegation of authority

The third and most important aspect of the mandate is the delegation of authority from the mandator to the negotiator to represent the organization and ultimately agree on the terms of the transaction with the counterpart.

This delegation of authority is an essential part of the mandate which puts the relationship between the mandator and the mandatee on a different level compared to a regular representative or staffperson. It is important to distinguish here instructions to **represent the position of an organization** (e.g., in an advocacy role) from a mandate to **negotiate for an organization**. The former focuses on the values and norms of the organization and trying to lobby for their implementation. The latter concerns the ability to make compromises that will benefit both parties to the negotiation. Some organizations may be inclined to avoid making a distinction between the functions of a representative and

the functions of a negotiator as it allows them to remain vague on the type of compromises the organization is ready to accept. They will expect their agent to find “practical solutions” at the field level without specifying institutional red lines (e.g., on issues of distributing assistance to the parties in control of a population, or when an organization is to accept a military escort). At times, organizations will not require that the agent report to their hierarchy on the details of the solutions found at the field level that may contravene institutional policies. The policy of “don’t ask, don’t tell” offers the largest flexibility to trusted negotiators in the field. It also carries significant reputational risks in an interconnected world. What happens in the deep field rarely stays there very long. Furthermore, keeping some of these arrangements secret within the organizations prevents the normal learning process of the organizations and the testing of their core values and norms in reality. “Don’t ask, don’t tell” enables the creation of various levels of misperception within

the hierarchy and governance of the organization about the relevance and practical nature of the core values and mission of the organizations, which, sooner or later, will have to come to terms with reality.

Regulating negotiation processes through proper mandates and ensuring a minimum of internal transparency on the

compromises allowed may at first put into question the interpretation of some of the humanitarian principles of the organization and result in greater risk avoidance at the field level. In the long run, it will probably ensure greater cohesion in the negotiation and elevate the standing and professional reputation of organizations operating on the frontlines.



## Application of the tool

This tool presents a set of practical steps to develop and interpret the mandate of a negotiator. There are three steps elaborating a mandate, either formal (explicit) or informal in essence as part of the job description of the staff member in the field.

### STEP

## 1 Stipulate the location, object, and time frame of the mandate

At the point of departure, the mandate must indicate the location, object, and time frame of the capacity of the humanitarian professionals to negotiate in the name of the sending organization. This mandate is often contained in the job description and professional title of the humanitarian professional (e.g., head of the mission to Country A, head of operation in District B, representatives of SCF to Country A). At other times, the negotiation mandate will be communicated in terms of the mission of a negotiation team.

Drawing from the cases presented in the **Yellow** modules, one may consider the following case.

### EXAMPLE

#### HEALTH FOR ALL'S SURGICAL TEAM DETAINED IN A LABOR DISPUTE

Nine staff members of Health for All (HfA), an international health NGO, have been prohibited by tribesmen from leaving their residence in District A for almost a week following a disagreement between

HfA and the guards of the local HfA hospital. This dispute follows HfA's plans to close the hospital due to decreasing war surgery needs in the region. The guards, who belong to an important tribe in the region, claim that the hospital should remain open and their compensation be paid as there are still considerable emergency health needs in the region. The guards, supported by tribal representatives, further argue that they put their lives at risk for several years to maintain the access of patients and staff to the hospital during an especially violent conflict. Some of the guards even lost their life in this process and others sustained long-term disabilities. Families of the guards wounded or killed during the conflict further request long-term monetary compensation for the loss of income before HfA pulls out of District A.

For now, the hospital is barely operational, with several emergency needs left unattended. The tribal leaders have agreed to meet with HfA representatives to look for a solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene without the support of the tribal chiefs.

Health for All has decided to enter into a negotiation process with the tribal leaders. Rather than asking the HfA representatives to District A to "figure things out," senior managers of HfA have decided to draw a proper mandate for HfA experienced negotiators to engage in this delicate process. In such a situation, the mandate will specify:

SPECIFICATIONS OF THE MANDATE	DESCRIPTION
Context	<ul style="list-style-type: none"> <li>• Restriction of movement of HfA staff in District A</li> </ul>
Object	<ul style="list-style-type: none"> <li>• Secure lifting of restriction</li> <li>• Secure functioning of the hospital</li> <li>• Re-establish trust with counterparts and community</li> </ul>
Time period	6 months renewable
Counterparts	Tribal leaders, local authorities, police, security guards and their families
Reporting line	Country Director of HfA

Negotiators must receive clear instructions on the expected format, timing, and content of the reporting mechanism to their mandator and/or operational hierarchy regarding the negotiation process. Instructions should also discuss the bottom lines of the dialogue, i.e., moments where the negotiator will need to go back to the mandator to report and discuss further opportunities in terms of agreement. This reporting should optimally integrate the results of the analytical tools provided to the negotiation team of HfA (see Section 2 **Yellow**), as well as the relevant information on the context analysis and the proposed tactics of the negotiation.

STEP

2

## Stipulate the person in charge of the negotiation

The second aspect is to identify the representative of the organization at the negotiation table and ensure that this person will have the time and resources needed to undertake the negotiation.

In our case, HfA may decide to :

- Appoint the head of the regional office as the lead negotiator with the tribal leader.
- Release the person from other administrative functions for the duration of the negotiation process.
- Support the creation of a small team of colleagues and peer reviewers to accompany the lead negotiator.
- Give the lead negotiator the benefit of the support of the local HfA office in terms of security, transport, and translation, as required by the negotiation team.

STEP

3

## Stipulate the general and specific terms of the mandate in the objectives of the negotiation

The general terms of the mandate are informed by the mission of HfA as well as by the professional standards, as presented in the module on *Identifying Priorities and Objectives of the Negotiation* in Section 2 **Yellow**.

## GENERAL TERMS OF THE MANDATE

CORE VALUES AND MISSION OF HfA	STRATEGIC OBJECTIVES OF HfA	GENERAL TERMS OF THE MANDATE OF THE NEGOTIATOR
<ul style="list-style-type: none"> <li>- HfA is a humanitarian organization. It operates under a set of principles (neutrality, impartiality, proximity, etc.).</li> <li>- It aims to ensure equitable access to health care to ALL, with special attention to the most vulnerable. It aims to complement existing services, public and private.</li> <li>- It is an ethical organization committed to respecting medical ethics and the privacy of patients. It is bound by the human rights of patients.</li> <li>- It is a transparent, well-managed, and diligent employer keen to maintain good relationships with the people and communities it serves.</li> <li>- While it has limited resources, it strives to do its best to ensure continuity of access to health as long as there are needs falling within its mandate.</li> </ul>	<ul style="list-style-type: none"> <li>- In the particular context, it appears that there are segments of the populations deprived of access to essential surgical care services. This context falls within the mandate of HfA as long as these needs are present.</li> <li>- HfA can provide health services, with the condition that the security of its staff, premises, and operations is guaranteed.</li> <li>- Security guarantees are the product of a trustful relationship with all the parties concerned. Such a relationship also implies that HfA maintains good standing with the community, particularly dealing with patients and the local staff of the hospital.</li> <li>- It is vital that HfA find a compromise with tribal leaders, as this situation is likely to have an impact on the standing of the organization in other parts of the country.</li> </ul>	<ol style="list-style-type: none"> <li>1) The negotiator is mandated to find an agreement on the safe presence and access of HfA in District A.</li> <li>2) While HfA may have to assume certain risks, it is important that it attempts to restore essential services of the hospital in this context.</li> <li>3) It is critical that HfA is presented as an organization that is close to the community and aware of its responsibilities with respect to health care and as an employer.</li> </ol>

- **Specific terms of the mandate:** Responding to the needs arising in District A

The specific terms of the negotiation relate to the issue at stake, either factual or normative in essence.

- A disagreement on facts will necessitate a mandate for a factual negotiation supported by operational experts and technicians of the organization and building up the required evidence of the negotiation to succeed.
- A divergence on norms will call for a mandate to conduct a normative negotiation mobilizing the support of the professional and political community in the context to engage on the normative framework of HfA. (For more information on this distinction, see the tool *The Island of Agreement* in the **Green** Section of this *Manual*.)

In this particular case, the mandate is triggered by the restrictions imposed on the movement of HfA staff by the tribal leaders and the untimely announcement of the closure of the surgical hospital. There seems to be no disagreement on the facts (there are no questions about the facts that staff members are detained and there are growing needs at the hospital). The negotiation will essentially be normative in terms of the obligations of the parties regarding the security of staff and the diligence of HfA in terms of management of the only tertiary medical service available in District A. (For more details on normative negotiation, see Section 1 **Green** *Drawing a Pathway of a Normative Negotiation*.) These specific terms will provide a framework for the elaboration of specific objectives of the negotiation (P) discussed in Section 2 **Yellow** *Module B: Identifying Your Own Priorities and Objectives at the negotiation table*. These terms are considered to be part of a confidential relationship between the mandator and the negotiator and his/her team.

## SPECIFIC TERMS OF THE MANDATE (STRICTLY CONFIDENTIAL)

### FACTUAL AND NORMATIVE TRIGGERS OF THE MANDATE IN DISTRICT A

- Nine staff members have been prevented from leaving their residence.
- Tribesmen are surrounding the residence and allow only water and food in.
- The functions of the hospital have been severely affected by these measures.
- Guards are seeking compensation for possible unemployment as well as injury and loss of life as a result of the planned closure of the hospital.

### SPECIFIC TERMS OF THE MANDATE OF THE NEGOTIATOR

1. HfA should insist on the prompt release of all HfA staff.
2. Tribal leaders must, in the meantime, guarantee the safety and well-being of HfA staff.
3. HfA will want to scale down its surgical activities in the region and hand over the hospital to a third party, including transferring obligations toward the guards and their families.
4. HfA may have to reschedule these attempts so as to allow proper consultation and the designation of a third party.
5. Meanwhile, HfA should undertake consultation to rebuild trust with the community.





## TOOL 16: EXTERNAL COMMUNICATION AROUND THE NEGOTIATION PROCESS

Regarding external communication, a critical point will be to ensure the confidentiality of the negotiation process and monitor as much as possible information about the situation. While information on the negotiation process is expected to circulate, it will be important to prepare a series of information briefings on the negotiation process as required by the circumstances and equip the country and negotiation team with resources in terms of public communication. It is vital that the lead negotiator remain in control of the communication on the negoti-

ation process at the local level, even coming from HQ, as such communication may have severe consequences on the trust and expectations of the parties. Any information coming out of HQ is part of the information impacting the negotiation process at the local level, and in our current media environment, every bit of local information may go global in a matter of hours.

As a first step, the mandator should ensure that the organization has a clear message to disseminate about the activities of his/her organization in the

specific context and, if necessary, the ongoing negotiation, as this message will be read attentively by all the stakeholders. The message should be made as much as possible of uncontested facts and convergent norms in order to build on the tactical plan of the negotiator (see the tool *Island of Agreements* in the **Green** Section). This message should also be articulated on the same grounds as the iceberg analysis of the position of the organization (see the module *Identifying Your Own Priorities and Objectives* in the **Yellow** Section), namely:

**1. WHY does our organization hope to operate** in the particular context? What are our

inner principles, motives, and values? What are the needs justifying this operation?

**2. HOW does our organization operate?** What problems are we trying to address? What professional tools will we use and what methods do we plan to implement? What are the difficulties encountered?

**3. As a result, WHAT is our position in the particular negotiation?** What is our offer of service? What are the terms under which the organization is ready to operate as a point of departure of the negotiation (i.e., best-case scenario of an agreement)?

### Application of the tool

Drawing from the analysis of the iceberg of the organization, the communication department that has legitimate interests in communicating about the activities of HfA must be integrated into the chain of the negotiation so as to understand its logic and the implications

of its communication at the operational level, particularly in a tense negotiation where even the life of the frontline negotiator may be at risk.

The external communication briefing would look like this:



## ELEMENTS OF MESSAGING FOR EXTERNAL COMMUNICATION

ELEMENTS OF COMMUNICATION	DESCRIPTION
<p><b>WHO</b> is HfA? What values define HfA as a humanitarian organization?</p> <p><b>WHY</b> does HfA want to operate in this context?</p>	<p><b>Core mission :</b></p> <p>The mission and identity of HfA are predicated on several elements that are of relevance in this particular context:</p> <ul style="list-style-type: none"> <li>• HfA is a humanitarian organization. It operates under a set of principles detailed in its mission statement (neutrality, impartiality, proximity, etc.).</li> <li>• It aims to ensure equitable access to health care for ALL, with special attention to the surgical needs of the most vulnerable in District A. It aims to complement existing services, public and private.</li> <li>• It is an ethical organization committed to respecting medical ethics and the privacy of the patient. It is bound by the human rights of patients.</li> <li>• It is a non-profit organization providing free services to populations in need of health care.</li> <li>• It is transparent, well managed, and a diligent employer looking to maintain good relationships with the people and communities it serves.</li> <li>• While it has limited resources, it strives to do its best to ensure the continuity of access to health care as long as there are needs falling within its mandate.</li> <li>• In the particular context, it appears that there are segments of the population deprived of access to essential health care services. This context falls within the mandate of HfA as long as these needs are present.</li> </ul>

ELEMENTS OF COMMUNICATION	DESCRIPTION
<p><b>HOW</b> does HfA operate? What are the specific methods?</p>	<p><b>How hfa works</b></p> <ul style="list-style-type: none"> <li>• HfA is a professional organization. It maintains professionally recognized protocols in terms of medical services, managerial methods, and financial accountability to donors.</li> <li>• It maintains a dialogue with the community and local health professionals around assessing the needs of the population.</li> <li>• As a private charitable organization, HfA has the authority to decide on its priorities and objectives. It regularly consults with local leaders and communities on the development of its activities.</li> <li>• It is also accountable to the health authorities of District A in terms of its role and objectives in the health care system of the district.</li> <li>• In terms of security of staff and premises, it hires guards from the community to help secure the premises (hospital, clinics, residence of staff) in line with applicable legislation and local customs. The guards are lightly armed due to the high level of armed and criminal violence in the context.</li> <li>• A direct link is maintained between HfA guards and the local police force.</li> <li>• In view of the tribal character of the society, the selection of the guards is made in consultation with tribal leaders who will propose and review candidates.</li> </ul>



ELEMENTS OF COMMUNICATION	DESCRIPTION
<p><b>WHAT</b> does HfA want out of this negotiation? What is HfA's position? How does it want to communicate this position?</p>	<p><b>Regarding the negotiation process</b></p> <ul style="list-style-type: none"> <li>HfA insists on the immediate release of all HfA staff and their evacuation from District A.</li> <li>Tribal leaders must guarantee the safety and well-being of HfA staff in the meantime.</li> <li>HfA scales down its surgical activities in the region and hands over the hospital to a third party, including obligations towards the guards and their families.</li> <li>Meanwhile, HfA engages in consultation to rebuild trust with the community.</li> </ul>



Communication roles should be carefully reviewed and assigned so as to ensure proper internal control over the messaging of the organization. As mentioned above, messages coming from any part of the organization are inherently part of the negotiation process.

Therefore, the mandator should be attentive to :

### ATTRIBUTION OF RESPONSIBILITIES IN COMMUNICATION ON A NEGOTIATION PROCESS

EXPECTED DEMANDS FOR INFORMATION	LOW	MID	HIGH	AGREED RESPONSE AND DISTRIBUTION OF RESPONSIBILITIES
Level of attention <b>locally</b>			X	Local team to brief local media weekly on the efforts of HfA under the guidance of the lead negotiator.
Level of attention <b>nationally</b>		X		Country Director to maintain links to media and government on activities of HfA in District A after consultation with Lead Negotiator.
Level of attention <b>internationally</b>	X			COM Department to maintain reactive line on activities of HfA in District A, in consultation with the Country Director.
Level of attention from <b>donors and other international actors</b>		X		Senior Management to brief donors and other senior managers on the development of the situation in the District, in consultation with Country Director.
Level of attention of <b>other stakeholders</b> (family of staff)			X	Country Director to regularly brief staff and family of detained staff on HfA efforts to lift movement restrictions, in consultation with the Lead Negotiator.

In our case, HfA may decide :

- To instruct the negotiator and negotiation team to report on a weekly or biweekly basis on the progress of the negotiation;
- To work with the negotiation team on an external communication strategy;
- To prepare with the negotiator a series of pro forma communication lines on the negotiation process; and
- To inform its communication department that all communications must be cleared by the negotiation team. This is essential so that the negotiator, who is responsible for creating and maintaining the relationship with the counterpart, is not surprised by any communications and has the opportunity to inform counterparts in advance.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool draws on some proposed tools to manage the communication environment of the negotiation in order to preserve the privileged relationships with the counterparts and stakeholders as well as to maintain a degree of responsiveness to external inquiries so as to manage the public profile of the process.



## Module B: Considering Institutional Policies and Red Lines

### INTRODUCTION

The purpose of this module is to identify the sources of institutional policies of an organization, providing a framework to guide a negotiation process and set up the necessary red lines.

Red lines are an essential part of the mandate given to a negotiator. They set the limits under which the negotiator is authorized by the mandator to discuss the terms of an agreement between the organization and the counterparts. While they may appear to confine the role of the negotiator by imposing predefined boundaries, they represent a critical feature of the mandate by plotting the actual scope of possibilities from the ideal outcome to the red line

Red lines should be understood more as enablers rather than actual limits of a negotiation process, recognizing the space of the negotiation granted to the negotiator and the negotiation team.

of the mandate. There cannot be a mandate to negotiate an arrangement without some minimal limits to clarify where the organization would be unwilling to compromise.

The determination of the red lines should always stay within the domain of the mandator and never be under the control of the negotiator. There's good reason for this: at the moment a negotiator starts to steer the red lines of his/her mandate, the construct of the mandate falls apart and the negotiator becomes directly exposed to the political pressure of the counterparts and social pressure of the environment. The role of the humanitarian negotiator on the frontlines is to *mediate between the parties* to find a pragmatic solution within the red lines.

#### On the Origins of Red Lines

Red lines are the product of internal policy deliberations informed by principles and norms



drawn from external sources (e.g., humanitarian principles, professional standards, moral values, etc.). As with the objectives of the negotiation, there are several layers of red lines. Generic red lines exemplify some of the core values of a humanitarian organization. Specific red lines are particular limitations applied to a given context, theme, or process. One can therefore list these red lines based on the relevant institutional policies and normative sources. The objective of this module is to clarify the sources of red lines and how institutional policies can be used in framing a negotiation process.

As mentioned in Module D: *Drawing Scenarios and Bottom Lines* in Section 2 **Yellow**, the scope of the conversation with the counterparts ranges between ideal outcomes, bottom lines, and red lines. Ideal outcomes relate to the most principled positions that maximize the benefit of the humanitarian organization; bottom lines are a tactical positioning of the negotiator to determine the limits of the open dialogue; and red lines are the hard limits of the mandate, i.e., the points beyond which negotiators are unable to agree on the terms of an operation.



## TOOL 17: IDENTIFICATION OF RED LINES

There are various sources of limitations involved in setting red lines:

- **Legal red lines,**
- **Institutional red lines,**
- **Professional red lines,** and
- **Moral or ethical red lines.**

### 1. Legal Red Lines

While humanitarian operations may take place in areas with a limited legal order due to the conflict environment, humanitarian organizations are not operating in a legal vacuum. Humanitarian organizations remain subject to **multiple jurisdictions and laws**, such as:

- Community norms of the region;
- National laws of the state of operation;
- National laws of the state of incorporation of the organization (in the case of NGOs);
- National laws of donor states;
- National laws of states of transit as well as procurement of goods, services, and employment;
- National laws of states hosting the financial institutions serving the organizations; and



- International laws and regulations such as UN Charter, IHL, HR, counterterrorism legislation, etc.

These multilayered jurisdictions play a role in regulating front-line negotiations, as observed over the recent years in terms of counterterrorism legislation. There can be many legal considerations; though not a complete review, the following are some legal red lines mandators and negotiators should be aware of as they consider options.

#### Community norms

Community norms are legal red lines that must be respected by individuals and social actors operating in a given community. These norms are customary as their normative character resides in the shared belief within the community that the expected behavior is compulsory. Customary norms can be found in written texts but are usually part of an oral tradition detailing local habits, religious restrictions, or other social norms that have the force of law within the community hosting an operation.

While their form remains quite vague and hard to predict for outsiders, community norms are understood by frontline negotiators as an important source of directions and prohibitions. They recognize that the presence and action of a humanitarian organization in a given community may be highly disruptive, challenging its traditional social and political order and running against a number of community norms. Compared to national laws and other sources of positive laws, community norms are often enforced by the community itself without much due process. Such expediency may have direct and unexpected consequences on the humanitarian operation and staff that are subject to community norms. As a result, humanitarian negotiators are well advised to ensure that the proposed operations fall as much as possible within community norms. Consideration of community norms, pre-emptively and proactively, can be critical in building trust and fostering acceptance and a positive relationship that can contribute to future negotiations. For example:

## EXAMPLE

### Community Norms Restricting the Delivery of Food Assistance

Food without Borders (FWB) has received a consignment of MREs (Meals Ready-to-Eat) from a Europe-based multinational military contingent to distribute to refugees in a camp in Country A. The refugee population in the camp is from a religious minority originating from Country B. FWB notes that the MREs coming from Europe contain pork. While there is no legal restriction in Country A prohibiting the importation and consumption of pork, the distribution and consumption of pork within the refugee community are prohibited under local community norms. This customary norm constitutes a red line for the FWB negotiator in the negotiation with refugee representatives as FWB is not allowed to violate community norms.

#### National and international legal norms

Legal norms are rules that regulate the behavior of individuals and social actors under the jurisdiction of the legal authority that has adopted these rules. There can be local laws (e.g., rules pertaining to the routing of convoys in a municipality), national laws (e.g., rules pertaining to food standards, security restrictions, taxation, etc.), and international laws as recognized by the national authority that regulates the behavior of national and international actors within the country. Some legal norms may also originate

from customary standards or a religious order (e.g., Sharia Law), becoming codified or otherwise integrated into the national legal system. Local, national, and international norms apply to all humanitarian actors operating within the jurisdiction of the country.

A humanitarian organization may benefit from exceptions under some of these rules or may have been granted an immunity of jurisdiction. If there is immunity of jurisdiction, this is specified in national laws and a legally binding document (e.g., a headquarters agreement



or international treaties (e.g., Convention on the Privileges and Immunities of the United Nations). International law is not directly applicable to a

jurisdiction without the national government being party to the treaty or having otherwise agreed to respect its provision. For example:

## EXAMPLE

### Food Without Borders Draws on International Law to Request Access to Refugee Populations Hosted by Country A

Food without Borders (FWB) is contracted by UNHCR to provide food assistance to refugees in Country A. FWB claims that it has a right of access to a refugee camp based on the obligation of the state to provide food assistance to the refugees under the 1951 Refugee Convention, as well as the Geneva Conventions that provide for a right of access to civilians in need under the ICRC Customary Law Study. It further claims that globally accepted humanitarian principles require that the government of Country A does not interfere in the provision of impartial and neutral assistance. FWB also insists that humanitarian action be exempted from any taxation by local authorities on the import of food rations. It argues that these taxes contravene both the fiscal immunity of the UN agency that contracted with FWB and the diplomatic immunity of the donor that funded the project.

Unfortunately, the counterpart, who is also a legal professional, denies all the claims, arguing:

1. Country A has not ratified the 1951 Refugee Convention. It is therefore not obligated under this treaty. UNHCR can still refer to its role and mandate described in the Convention, but it does not imply a legal obligation of the government of Country A. This reference does not apply to FWB as a contracted entity.
2. While IHL applies to the conflict situation in Country A, it does not provide for a right of access to FWB. The ICRC Study is not a legally binding document. It provides only an expert opinion of the ICRC on what it sees as customary law in IHL.

3. Humanitarian principles as defined in UN General Assembly Resolution 46/182 require the consent, if not active request, of the host state for any humanitarian operation to take place on its territory in line with its obligation under IHL. FWB cannot argue it has a right of access under humanitarian principles.
4. Finally, if the UN Convention on Privileges and Immunities and the Vienna Treaty on Diplomatic Relations are in force in Country A, they apply respectively only to the UNHCR and the government donor, and not to FWB. Therefore, local tax regulations are applicable to the assistance of FWB.

In addition to these points, the counterpart asserts that counterterrorism legislation prohibits any form of material support to listed terrorist organizations in Country A based on the national legislation and in line with international rules and decisions. Therefore, FWB is accountable to prevent food assistance from being delivered to members of the listed armed group Alpha hiding among refugees. Failure to comply with counterterrorism rules of Country A may engage the legal liability of FWB for material support to a terrorist group as well as the criminal responsibility of its staff.

At the negotiation table, legal norms are often used to frame the options of what is considered to be legal or illegal by the government counterpart. One should recognize that these legal norms have been crafted by governments. They rarely favor humanitarian organizations over the freedom of government. Yet, the humanitarian negoti-

ators may also use such legal restrictions framing their own red lines when the discussion involves illegal or criminal acts under the national law of the country of operation, the laws of the country of the donor, or the laws of the country of origins of the organization.

For example :

## EXAMPLE

### The Governor of District A Seeks Financial Advantages from FWB to Allow Access to Refugees

In the same case mentioned above, a close friend of the Governor informs FWB representatives that :

1. To accelerate the delivery of the required transport permits from the Governor's Office, an exceptional informal (i.e., undocumented) "security" fee of USD 500 per truck is required to allow the convoy to enter into the camp. This fee is payable in cash to a friend of the Governor.
2. The only transport company allowed in the camp is owned by the wife of the Governor.
3. Police officers in the camp must be hired by FWB at a significant rate to facilitate access to the camp.
4. A local security officer of the Governor requires the names and addresses of the female local staff of FWB active in the country. Information circulates that members of the security force regularly harass local female staff of INGOs in exchange for allowing them to work for the INGOs.

FWB representatives who have been briefed on the legal obligations of FWB in Country A dispute these restrictions, claiming that :

- a) There is no legal basis for the payment of a security fee per truck. FWB is concerned that such payment is perceived as a violation of anti-corruption legislation in Country A. FWB is bound by the laws of Country A.
- b) The contract with the foreign donor subjects FWB to the laws of the donor government. These laws require a properly documented and audited legal tender process for hiring a truck company. FWB is not able to accept the monopoly of the truck company accessing the camp.

- c) The role of police officers under the law of Country A is to ensure law and order. Providing food assistance is part of the public services of Country A. There is no law that requires the payment of police officers to ensure a public function.
- d) While FWB is bound by the security laws of Country A, it will need to consult with its lawyers regarding its privacy obligations in Country A under foreign laws before it provides the names and addresses of any of its staff.

As exemplified in the case above, the legal restrictions to a negotiation process may be quite stringent. Many of these laws may also be used to draw undue advantages for the parties involved. It is therefore important for negotiators to :

- a) **Know about the legal restrictions in force** in the context. See which of these legal restrictions the government is actually enforcing (i.e., which ones are active red lines and which ones are more rhetorical);
- b) **Identify which legal norms are potentially used** to extract undue advantages (e.g., fees for a permit) and seek a clearance of these restrictions at a higher level;

**c) Avoid making legal arguments in a negotiation** unless i) the laws are in force in the country; ii) these laws are recognized by the counterpart; and iii) these laws provide an incontestable advantage to the humanitarian organization; and

**d) Get the necessary legal advice** to support such argument as the point of the negotiation is to seek the consent of the counterpart to operate and not force its compliance to given rules that favor the humanitarian operators.



As compared to other red lines, organizations have little control over the legal framework regulating their operations in the country. A number of these rules may impose restrictions that are in conflict with some of their values and policies and would prevent the negotiators from reaching an agreement that is both acceptable for the organization and legal in the jurisdiction. The organization should refrain from operating in this environment unless it is ready to change its red line or if the government agrees to exempt the organization from the rule. The fact that another organization is ready to comply with the demands at the cost of the legitimacy and legality of the arrangement is not a motive to violate one's own rules.

## 2. Institutional Red Lines

Institutional norms constitute a significant pool of red lines of a humanitarian negotiation. The purpose of institutional norms is to maintain a coherent approach to the humanitarian mission of the organization and preserve the reputation of the organization within professional and donor circles. There are two categories of institutional red lines:

- a) **Humanitarian principles, and**
- b) **Other institutional red lines.**

Each of these institutional principles and norms entails specific red lines as part of the mandate of the negotiator or as elaborated in the course of dialogue with the mandator. It should be

noted that, while legal red lines cannot be altered, institutional norms are under the control of the organization. There may be situations where the mandator may opt for or delegate the flexibility to the negotiation team to adapt the policies to the situation depending on the cost/benefit of the policy.

### a) Humanitarian principles as institutional red lines

Humanitarian principles constitute an important source of institutional red lines, although their interpretations vary from one organization to the next. These principles involve the following:

#### *Humanity*

The object of the negotiation pertains to the provision of *essential goods and services to preserve the life and dignity of affected individuals or populations*. All objects of the negotiation falling within this definition are therefore allowed. Other objects (e.g., planting trees or paving a road) may fall outside the scope of humanitarian negotiation, depending on the context. The

farther away the object of the negotiation from the principle of humanity, the more likely it will be affected by the institutional red line, depending on the organization's interpretation of the principle of humanity. Some organizations may have a narrow vision of their humanitarian mission, limiting the objects of the negotiation to lifesaving assistance; others may include a larger series of life-enhancing and rights-promoting objectives (e.g., education programs, income generation, preservation of the environment, etc.) as an intrinsic part of their humanitarian vision. The varying nature of the vision implies that negotiators from different organizations may have distinct red lines pertaining to the purview of the negotiation—some are happy to entertain a large scope of options, others are reluctant to engage beyond lifesaving activities.

#### *Neutrality*

Humanitarian organizations generally agree that their programs in conflict zones should



maintain a neutral stand in the eyes of the parties to the conflict, implying that they should not be perceived as taking sides regarding the matters at the *core of the conflict*. This institutional requirement does not imply that the negotiators should never take sides on any issue prevailing *in the conflict*. The negotiator should indeed take the side of vulnerable groups targeted by a party to the conflict, such as victims of forced displacement or children recruited by an armed group, as the mission of the humanitarian organization is to take

on the interests of the civilians affected by armed conflict. This neutral perception is difficult to maintain in situations where one of the main goals of a party to the conflict is to take aim at challenges to the life and dignity of a segment of the population (e.g., discriminatory policies against the occupied population, ethnic cleansing, acts of genocide, etc.). In such case, the humanitarian negotiator striving to negotiate in favor of the victims of these policies may consequently appear as having lost his/her neutrality in the specific circumstances.

### *Impartiality*

The principle of impartiality is one of the most valued aspects of humanitarian programming. It implies that essential assistance should be given to those most in need without any form of discrimination. It is also one of the most widely interpreted principles, considering the implications it may have on the frontlines, where access is often restricted by the parties to prevent the distribution of assistance to a specific group (e.g., to certain persons in besieged areas). Humanitarian organizations

struggle to maintain an impartial approach as logistical, operational, and political considerations may affect the distribution of assistance to the population in need. Tactical considerations may also interfere in the setting up of priorities for distribution. Recurring questions include:

- Should the humanitarian organization deliver assistance only to those it is granted access to, at the expense of others most in need to whom access is prohibited?



- Should the organization refrain from assisting the former until it can secure access to the latter (e.g., those in a nearby besieged area)?
- Are there forms of discrimination (age, gender, ethnicity, religion, security status (e.g., for families of foreign fighters)) in the delivery of assistance that are more acceptable or objectionable than others in times of emergency or in intense political environments, or is the only discrimination allowed based on lesser needs? Where should the red line be?

The role of the mandator is to set the terms of impartiality in the eyes of the hierarchy of the organization, understanding that significant pressure will be imposed on the frontline negotiators. The mandator should remain engaged in reviewing and discussing the terms of agreements that impose restrictions on the access and delivery to the most vulnerable groups as humanitarian organizations may easily be instrumentalized by the

counterparts and fall prey to the discriminatory policies they have been charged to balance off.

### *Independence*

The principle of independence is among the most debated features of humanitarian programming. It entails the ability of organizations to draw policies and make decisions based on their own assessments, values, and norms, free from undue external influences, particularly external political actors. While policies of organizations are developed in an organic manner within the social environment of each entity, the principle of independence implies that internal policy and managerial decisions are made within transparent processes and primarily serve the mission of the organization.

Humanitarian negotiators should, however, remain skeptical about their own claim of independence, especially in the eyes of their counterparts. Humanitarian organizations exist and are allowed to operate thanks to a myriad of multifaceted depend-

encies within their respective social, professional, and political environments. Negotiators can always argue that their organization is trying its best to maintain the integrity of its activities and limit the influence of external actors. They should not appear oblivious to the actual dependencies of their organization. Even the core principles of humanitarian action should be understood as the product of the social and political culture of mid-1960s Cold War Europe, which carries over a number of political assumptions regarding, in part:

- The prominence of international norms over local rules and customs;
- The role of foreign humanitarian actors as carriers of these norms and edicts;
- The recognition of the central role of governments in addressing humanitarian needs;
- A reverence toward national sovereignty enshrined in positive international law;



- A suspicion about the role of communities and individuals in designing the humanitarian response;
- A narrow perspective on the geopolitics of international relations, including an aversion to the contribution of so-called for-profit corporate actors.

These assumptions are not innate to the mission of aid organizations but are integrated into the culture of many traditional humanitarian actors without much critical sense of the interests served by these assumptions. Rather than entering into this contentious debate, many professionals equate the independence of organizations with a narrow interpretation focusing on the financial dependency of their organization instead of on the origins of their policy culture over a number of assumed values, norms, and political visions. Other superficial notions of independence include the composition of the governance or the cultural, religious, and ethnic makeup of the staff, all potentially seen as evidence of undue influence.



As far as the independent standing of humanitarian negotiators, diversity in the negotiation team can be an important support to ensure that the notion

**The demonstration of independence of humanitarian negotiators pertains first and foremost to their national identity, whether being nationals of the country or foreign nationals, and, if the latter, from which country or countries.**

of independence is recognized by the counterpart. In all cases, the independence of the organization should be judged in the eyes of the counterpart.

### **b) Other institutional policies as red lines**

The organization may have adopted a series of policies regarding the multifaceted conduct of its operations. These policies are individual red lines framing the options for the negotiation team and informing the design of the scenarios. These may include, among other things:

- “Do no harm” policies that require due diligence in preventing harm toward the beneficiary population as a direct or indirect consequence of a humanitarian program;
- Duty of care regarding the well-being of staff;
- Professional procedures and protocols (e.g., requirements to employ only licensed physicians);

- Financial protocols and accountability mechanisms (e.g., requirements to document all expenses);

- Security protocols and measures (e.g., employment of guards for premises and residence); and,

- Rules pertaining to the prohibition of sexual harassment or abuses.

While some of these institutional red lines (e.g., do no harm or financial accountability requirements) are shared with most organizations operating in the same environment, others are often specific to each organization and to each context. Institutional red lines regarding professional behaviors tend to evolve over time, depending on the expectations of the donor, host government, beneficiaries, and the public.

To help situate institutional red lines in a context, one may consider the following example:

## EXAMPLE

### The Governor of Country A is Eager to Ensure the Role and Control of His Government in the Distribution of Relief to Refugees

In the same case example as above, the head of the Office of the Governor informed FWB representatives that:

1. The Governor insists on selecting the segment of the population most in need in the camp based on the information available to the government.
2. Daily laborers who will assist in the delivery of assistance will need to be paid in cash through the Governor's office. The office will see how to get receipts from the daily laborers for the payment, but it may take several weeks before the receipts will be handed over to FWB.
3. Security guards will be equipped with sticks and will use them on the camp population to ensure that people will stay in line as they are being counted by FWB staff.
4. The Governor intends to make a speech to camp leaders at the beginning of the distribution of FWB food rations to praise the efforts of his government toward the welfare of refugees.
5. Ultimately, the Governor will host a private party at this residence where "girls" from the camp will entertain guests.

FWB representatives who have been briefed on the institutional policies of the organization have to respond to these requests. Yet, in view of the urgency of the lifesaving assistance, the negotiation team is considering its options, in consultation with the mandator, to ensure that the assistance will be delivered to the camp in time.

- a) They will not allow selection of the recipients of assistance by the Governor unless FWB can also select its own recipients.

- b) Daily laborers will need to be paid in cash directly by FWB, in the presence of a staff member of the Governor's office.
- c) Considering that guards in the camp are always equipped with sticks, FWB will probably need to close its eyes to the use of such method to keep order during the delivery of assistance. It will look for ways to limit disorderly behavior during the counting of population. FWB will actively seek alternative models of crowd control.
- d) They may decide to allow the Governor to make a speech but will take measures to disassociate the delivery of assistance from the government considering the fact that most of the camp dwellers are from families of rebels.
- e) In no way will FWB staff participate in a private party where women and girls from the camp will be subject to sexual harassment or prostitution.

### 3. Professional Red Lines

There may be other professional restrictions that may not be part of the institutional policies of the organization but represent important red lines to maintain the professional standing of the negotiator and of the organization. These restrictions often pertain to the professional status of the organization and the conduct of its staff within their respective professional community (e.g., physicians, engineers, accountants, nutritionists, security personnel, etc.).

Professional norms are directed toward demonstrating the rigor of the professional staff and the delivery of services. They may include:

- Expected methods of assessing needs and delivery of aid;
- Expected methods of dealing with beneficiaries;
- Other expected professional behaviors (e.g., attire, attitude, etc.).

There may be cases where the counterpart may entangle humanitarian negotiators in paradoxical situations in terms of professional behavior as a way to weaken their standing at the negotiation table. For example (including, but not limited to):

- Imposing disruptive emotional behaviors on the negotiation team at the meeting (anger, shouting, emotional debrief, etc.);
- Inciting excessive drinking of alcohol prior to or at the negotiation table;
- Requiring to meet in the middle of the night for no particular reason;
- Requiring the use of inadequate tools or methods (e.g., conduct of an assessment using lists in local language without interpretation);
- Prohibiting contact with the population in the camp.

The professional standing of an organization may prohibit some of these restrictions even if there are no specific institutional policies. These expectations are part of the professional character of the staff hired by the organization and can be context-specific as well. There may be situations where the local rules of decency or politeness may contravene the professional standing of the organization in another context (e.g., chewing khat, eating using one's right hand, etc.). Local rules and customs govern the behavior of the parties at the negotiation table as long as these rules do not undermine the capacity and dignity of the negotiators.

A party intending to jeopardize a negotiation will likely communicate its intent early through gestures of professional disrespect

A negotiator should remain aware that a sudden lack of respect of the counterpart for the professional standing of the negotiation team may be a sign of a significant degradation of the situation.



that have to be read in their context (e.g., unexplained cancellation of a meeting, extensive wait before a meeting, weapons in the meeting room, unexplained silence during the meeting, absence of eye contact, refusal to shake hands, aggressive tone, shuffling of people at the table, etc.). These may be signs of an impending conflict in the negotiation process or growing threat toward the negotiation team. The same expectations apply to the humanitarian negotiator's behavior, which can easily be misread. The professional standing, attire, and appropriate behavior in the context are important means to ensure that the negotiation process remains

on track at all times despite the prevalence of difficult issues, tensions, or unstable interlocutors.

#### 4. Moral or Ethical Red Lines

A final source of red lines could be based on personal moral or ethical dimensions without necessarily having an institutional policy or professional standing. These restrictions focus on moral standing and have a personal dimension that makes them difficult to manage or be objective about, being linked at times to personal behaviors as well as religious or moral beliefs. Growing

discomfort is a signal of getting too close to some of these red lines. These may include:

- A female negotiator may be asked to join the male counterpart for an informal discussion in his private quarters;
- A negotiator may be asked to join a religious ceremony or to profess a belief different from his/her own;
- A negotiator may be asked to take part in a cultural event that goes against his/her belief (e.g., eating meat for a

strict vegetarian) during the negotiation process.

There are numerous situations that can become major sources of discomfort which may or may not be intended by the counterpart or the humanitarian organization.

The fact that negotiation processes are often about finding the right compromises may create the perception that humanitarian negotiators may be ready to be complicit with the illegal or immoral purpose and methods of the counterpart. For example:

### EXAMPLE

#### On the Detention of Children Among Adults

The International Monitoring Network (IMN), an international NGO mandated to monitor the treatment of detainees, is visiting a local prison in a conflict zone. During one of these visits, IMN monitors observe that a number of children are detained with the adult population in a clear breach of national and international standards protecting children. Several of them showed signs of abuse. In view of the absence of alternative places of detention and resources, all stakeholders in the prison request the IMN monitors to ignore the particular situation of children since they could lose access to the location and put these children at even more risk.

Such a situation should be a source of major concern for the humanitarian negotiator as it may contravene a number of red lines, including ethical ones. Without judging the case prematurely, the negotiator is bound to discuss this ethical issue with his/her team and the mandator, who should be the one making the call on the cost/benefit of a denunciation of the abuses to national prison authorities vs. allowing the children to stay with the adults in view of the risk of losing access to the location. The context and circumstances are paramount to evaluate the possi-

ble ways to address the protection of the children. First and foremost is the question of whether children will be better protected in an alternative location in view of other threats they may face.

While everyone has moral imperatives, frontline negotiators should be aware that morality and ethics are in essence cultural norms and may require some tact in finding an appropriate solution to differences. Yet, the moral standing of the negotiators is as important as the professional or institutional standing of the organization. Frontline negotiators should therefore avoid ambiguities about their moral character and reputation, as well as their own moral imperatives under the local customs.

#### Flexibility Regarding Red Lines and Institutional Policies

Red lines are part of the mandate of the negotiator. These cannot be changed or revised without the agreement of the mandator. There may be circumstances where red lines are not as absolute as they may appear. For example:



- While payment for the release of hostages is a definite red line for many organizations, the granting of safe evacuation or other advantages to the hostage takers is understood at times as an acceptable compromise under specific circumstances.
- While the diversion of assistance by armed groups is a definite red line for many organizations, the distribution of food to the families of militia members may be allowed under specific circumstances.
- While the military escort of humanitarian convoys is a definite red line for many organizations, extreme needs and sustained insecurity from criminal gangs may dictate the limited use of armed escorts on specific segments.

In other words, while red lines are definite limitations of the mandate of the negotiator, they may be adapted in view of exceptional circumstances of the situation in terms of a cost/benefit analysis of these policies. There may be situations where the red lines should be adapted by the mandator so as to ensure the humanitarian character of the mission and the objectives of the organization. These decisions have major consequences on the modus operandi and reputation of the organization as well as setting expectations for future negotiations and operations. They should be made at the appropriate level of the hierarchy. In all cases, the negotiator is, in principle, not allowed to make decisions on the determination of the red lines as they affect the core of his/her mandate, which is not under his/her control.

### Application of the tool

This segment presents a set of practical steps to review the applicable institutional policies and inform the identification of the red lines as part of the design scenario for the negotiation process. It will

also examine the case brought up in the previous segment regarding the retention of staff to exemplify the steps to be followed in this process. The case is presented here as a point of reference.

#### EXAMPLE

##### HEALTH FOR ALL'S SURGICAL TEAM DETAINED IN A LABOR DISPUTE

Nine staff members of Health for All (HfA), an international health NGO, have been prohibited by tribesmen from leaving their residence in District A for almost a week following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows HfA's plans to close the hospital due to decreasing war surgery needs in the region. The guards, who belong to an important tribe in the region, claim that the hospital should remain open and their compensation be paid as there are still considerable emergency health needs in the region. The guards, supported by tribal representatives, further argue that they put their lives at risk for several years to maintain the access of patients and staff to the hospital during an especially violent conflict. Some of the guards even lost their life in this process and others sustained long-term disabilities. Families of the guards wounded or killed during the conflict further request long-term monetary compensation for the loss of income before HfA pulls out of District A.

For now, the hospital is barely operational, with several emergency needs left unattended. The tribal leaders have agreed to meet with HfA representatives to look for a solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene without the support of the tribal chiefs.

**STEP**

**1**

**Identify the current red lines by sources of institutional policies and extract the appropriate red lines for the negotiator.**

A number of legal, institutional, professional, and ethical red lines are at play in this context. Each red line represents a policy of the humanitarian organization, Health for All.



**LEGAL RED LINES**

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
Customary	HfA operates in complex cultural and social environments. It must ensure its compliance with social rules as long as these customary rules do not contradict other legal obligations or institutional norms. It may also call upon the protection of its staff under local rules.	Building on customary norms protecting the safety and security of HfA staff, HfA negotiators will reject any compromise that puts HfA staff at further risk.
National laws	Local authorities must ensure the protection of staff of NGOs operating within the District. NGOs are bound to abide by local laws, in particular in terms of employment and compensation for risks.	Building on existing laws, HfA will reject any compromise that legitimizes the restrictions imposed on the freedom of movement of its staff.
International law	International law protects health staff against attacks, abuses, and assault. Health staff must be able and willing to assist all persons in need of health care without discrimination.	Building on the international protection of health personnel, HfA negotiators will reject any arrangement that prevent the free movement of HfA staff and their return to work at the hospital.



## INSTITUTIONAL RED LINES

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
Humanitarian principles	<ul style="list-style-type: none"> <li>• Humanity: General health care needs fall outside the mission of HfA (which focuses on surgical care).</li> <li>• Impartiality: Those most in need, the life-saving cases, should receive assistance first.</li> <li>• Neutrality: HfA should ensure that it is not perceived as taking sides on the tension within the community.</li> <li>• Independence: HfA should ensure that its decisions are explained in a way so that counterparts can understand the rationale and values of HfA.</li> </ul>	<p>HfA negotiators cannot commit to keep this hospital open forever.</p> <p>HfA must respond to the needs of patients currently in the hospital and new emergency care cases.</p> <p>HfA should avoid taking sides of the families of patients.</p> <p>HfA negotiators should be prepared to explain the position of HfA carefully.</p>
Duty of care	HfA has a duty of care toward the safety and security of its staff, regardless of their status or location.	HfA must make its best efforts to reconnect with their staff immediately and seek their release in a safe manner. Their well-being is a priority of the negotiation.

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
Do no harm	HfA is committed to taking steps to avoid or minimize any adverse effects of this negotiation, in particular, the risk of exposing staff, patients, or their families to increased danger or abuse of their rights.	HfA negotiators must consult regularly with the negotiation team as well as the mandator when in doubt about the ramifications of the position taken on the welfare of the staff, patients, and families.
Security protocol	HfA is committed to ensuring the best protocol and standards for the safety and security of its staff.	HfA negotiators should avoid discussing details of security conditions, e.g., regarding the redeployment of tribesmen, with tribal leaders without clear advice from HfA security experts.

## INSTITUTIONAL RED LINES

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
Professional health standards	HfA is a professional health organization. Its activities are based on solid and objective evidence using the latest scientific tools and methods. Its protocols are regularly reviewed by health professionals from other organizations.	Positions pertaining to the planning of current and future health activities of HfA in District A must be based on data gathered and analyzed by HfA or other recognized health officials and approved by HfA's internal health directorate as well as the local officials of the Ministry of Health.

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
<b>Professional aid standards</b>	HfA is a professional aid organization eager to maintain recognized aid standards regarding assessment of needs, accountability to beneficiaries, and participation of the population and communities in its programming.	Negotiators must remain aware of the opinions of community leaders and families of patients, as well as families of guards, regarding the negotiation process. They must have access to conduct the required consultation.
<b>Professional negotiation standards</b>	HfA negotiators must have the required experience to lead complex negotiations and ensure the proper protocols.	<ul style="list-style-type: none"> <li>• HfA does not agree to negotiate under pressure. HfA negotiators must have immediate access to reconnect with the HfA staff retained in their residence and ensure their well-being.</li> <li>• HfA negotiators are the sole representatives of HfA in the District during the negotiation. They must be able to consult regularly with the HfA staff, including those retained in their residence.</li> </ul>

### MORAL AND ETHICAL RED LINES

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
<b>Solidarity with HfA staff</b>	HfA must demonstrate personal attention and loyalty to staff in a difficult situation. It must do its utmost to protect its staff and ensure their return home safely.	As a first step to the negotiation process, HfA negotiators should visit HfA staff in the staff's residence.
<b>Solidarity with patients and their families</b>	HfA must be committed to the well-being of the patients under its care and their families. It must ensure that patients are given the right level of care, including post-operative and rehabilitation services, by third parties.	HfA negotiators should visit the hospital as a second step of the visit to the District and be able to meet with the patients and their families.
<b>Solidarity with disabled guards and their families as well as families of guards killed on duty</b>	HfA is committed to the welfare of its staff wounded on duty as well as the families of staff injured or killed on duty. It must find appropriate arrangements to ensure fair compensation under local laws and customs.	HfA negotiators should be able to meet in the early stage of the negotiation with the staff of the hospital, including guards, as well as the families of injured or killed staff.

**STEP  
2**

**Define the red lines for the negotiation with the main counterparts and stakeholders**

Using the tables above, create a new table that summarizes and simplifies the red lines for each of the main objectives of the negotiation and for each of the counterparts and stakeholders. The new table will be useful not so much as a regulatory framework, but as the starting point of conversation with the negotiator, the mandator, and the negotiation team. The cumulative table should therefore be regularly revisited and reapproved by the mandator.

As a summary of the applicable policies, the red lines of the mandate are as follows :

**Designing and implementing red lines**

Red lines are more “tools” than “rules” of humanitarian negotiation.

Contrary to the strategic objectives of the negotiation which deserve to be written down and articulated as part of the iceberg of the humanitarian organization, red lines are more a source of discussion and reflections between the negotiator, the negotiation team, and the mandator. Red lines need to be put into place in the original mandate by the mandator. Yet, their impact on a negotiation should materialize through regular conversations and feedback among these actors. Their dialogue is to help the negotiator stay in line within the

**CUMULATED RED LINES INFORMING THE HFA NEGOTIATOR’S MANDATE**

**HFA’S RED LINES TOWARD COUNTERPARTS AND OTHER STAKEHOLDERS**

ISSUES BEING NEGOTIATED	TRIBAL LEADERS	GUARDS AND FAMILIES	PATIENTS AND FAMILIES	HFA LOCAL STAFF	HFA RETAINED STAFF
Safety and security of staff and operations	<ul style="list-style-type: none"> <li>Must ensure security of staff at all times.</li> <li>Must redeploy tribesmen away from the residence.</li> </ul>	Must ensure the security and integrity of staff.	Must be given access to functioning hospital.	Must be able to work without pressure from armed militias.	Must be able to meet with HfA representatives preparing for their release.
Provision of health care services to the population	All HfA staff must be able to return to work to fulfill their health care duties.	Must be able to ensure that wounded guards have access to the required care.	Must be able to consult with patients and families on health status and care.	Must be able to resume work in the best safety and security conditions.	Must be released to undertake their medical duties.
Future of HfA hospital	HfA cannot guarantee that HfA will continue to support the hospital.	HfA cannot guarantee employment but will work on a proper compensation scheme.	Must be able to consult with families and communities on plans for the hospital.	HfA cannot guarantee employment but will work on a proper compensation scheme.	Staff unwilling to perform their duty in District must be able and authorized to leave freely.

legal, professional, and ethical standards of the organization. The red lines further allow the negotiators to maintain a certain level of neutrality between the counterparts and their organization. The role of the negotiators is to intercede between the two icebergs and look for a compromise. Red lines determine an acceptable scope of possibilities for the organization, not for the negotiator per se. Hence, the mandator should always be responsible for deciding on the red

lines and never give this role to the negotiator. If the humanitarian negotiator were seen to have authority to control or bend the red lines, the counterparts could put pressure on the negotiator. It would become difficult, if not intractable to maintain a minimum standard without being responsible for the breakdown of the negotiation.

## CONCLUDING REMARKS & KEY LESSONS OF THIS TOOL

This tool provides a reflection on red lines and their role in guiding and managing a negotiation process. The mandator is responsible for setting up red lines and revising them regularly via an ongoing dialogue with the negotiator and the negotiation team. Red lines have a number of sources, from community rules to national laws, professional standards, and ethical norms. These norms may come into conflict. It is critical that the negotiator engages with his/her team to review and discuss normative tensions as they are at the core of the humanitarian negotiation process. Ultimately, red lines are an essential part of a negotiation. Their implementation should be as cogent as the operations that will result from the negotiation.





# Annex



# Annex

## ON THE COMPETENCES OF HUMANITARIAN NEGOTIATORS

Members of the CCHN community have identified a series of competences in terms of *knowledge*, *attitudes*, and *skills* that define, in their view, the profile of humanitarian negotiators. It is understood that the selection of competences constitutes a first baseline reflection on the shared features of the members of the CCHN community and their profession. It is expected that this understanding will evolve over time with the expansion of the membership of the community and the progression of the demands from the field. Hence, these elements of knowledge, attitudes, and skills are mentioned here as a series of shared objectives towards which members aspire to build their competence through personal, institutional, and community-based development activities. *Knowledge* is understood as concepts and methods related to humanitarian negotiation that can be acquired through various means and experience, includ-

ing training workshops and reading material. *Attitudes* are understood as personal behaviors and perspectives that are mostly acquired through self-reflections and critical thinking based on field experience. *Skills* are understood as technical abilities to undertake negotiation-related tasks.

The following table presents the *Competence Chart on Humanitarian Negotiation* as developed in the course of a Professional Consultation in Caux, Switzerland, in June 2019 involving 22 experienced field practitioners, all members of the CCHN community. The results of the consultation have been further reviewed and discussed in peer workshops across field operations. The *CCHN Competence Chart* is organized in three levels:

- Level 1. Core competence outlines the basic requirements for someone working or hoping to work in this domain;

## COMPETENCE CHART ON HUMANITARIAN NEGOTIATION (2019)

LEVEL/ FEATURE OF DEVELOPMENT	KNOWLEDGE	ATTITUDES	SKILLS
Core	<ul style="list-style-type: none"> <li>• Understanding of humanitarian principles and basic rules</li> <li>• Capacity to analyze contexts and interests</li> <li>• Capacity to analyze networks</li> <li>• Knowledge of cultural protocols</li> </ul>	<ul style="list-style-type: none"> <li>• Self-awareness about one's perceptions</li> <li>• Emotional intelligence</li> <li>• Accepting complexity</li> <li>• Intercultural flexibility</li> <li>• Empathy</li> </ul>	<ul style="list-style-type: none"> <li>• Ability to think tactically and critically</li> <li>• Ability to work under pressure</li> <li>• Ability to deal with difficult people</li> <li>• Ability to share experience and perspectives openly</li> </ul>
Advanced*	<ul style="list-style-type: none"> <li>• Capacity to understand and manage multiple external stakeholders</li> <li>• Capacity to leverage influence in complex environments</li> <li>• Capacity to balance interests and find the right compromises</li> <li>• Capacity to engage in strategic thinking and decision-making</li> <li>• Capacity to reflect and deliberate on complex issues in a systematic manner</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptability to changing environments</li> <li>• Ability to create options out of complex problems</li> </ul>	<ul style="list-style-type: none"> <li>• Ability to address negotiations tactically, including the use of social media</li> <li>• Ability to work and live in complex environments</li> </ul>
Expert*	<ul style="list-style-type: none"> <li>• Capacity to forecast changing environments and positions</li> <li>• Capacity to develop multifaceted strategies for multiple stakeholders</li> <li>• Capacity to leverage competing sources of influence</li> </ul>	<ul style="list-style-type: none"> <li>• Ability to take and manage risks</li> <li>• Ability to lead a negotiation process</li> <li>• Ability to align priorities within one's organization and maintain a clear mandate</li> </ul>	<ul style="list-style-type: none"> <li>• Ability to mentor and coach negotiation teams in complex environments</li> </ul>

\*Advanced and Expert levels presume inclusion of the elements of the previous levels.

- Level 2. **Advanced competence** collects elements that professionals should aspire to as they handle more complex and demanding negotiation processes; and
- Level 3. **Expert-level competence** underlines elements that are the most advanced for the most experienced humanitarian negotiators.

These elements of knowledge, attitudes, and skills are understood as cutting across the humanitarian sector and activities. They should inform the work of frontline humanitarian negotiators and their interpretation of their respective mandate. In addition to these core elements, there are multiple levels of policies, norms, and tools attached to the mission of each agency that should also be understood. Each agency should ensure that their frontline negotiators are informed about these policies prior to mandating them to negotiate their implementation. The CCHN's concern is to focus on the know-how required to plan and conduct a well-articulated negotiation process above and beyond the policy and normative framework of humanitarian operations. This know-how is presented step by step in the **CCHN Field Manual**. The CCHN recommends to all its members to seek the necessary policy and normative tools mentioned above through their organization, personal reading, and professional training programs.





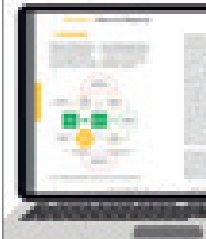




## OVERVIEW OF CCHN TOOLKIT ON FRONTLINE HUMANITARIAN NEGOTIATION

The **Centre of Competence on Humanitarian Negotiation (CCHN)** has developed a comprehensive toolkit for humanitarian professionals engaged in frontline negotiation. The

toolkit includes a series of print and online resources designed to support negotiation practitioners and their team in all stages of a negotiation process.

	<p>The <b>CCHN Field Manual on Frontline Humanitarian Negotiation</b> proposes a comprehensive and systematic method to conduct humanitarian negotiation. It offers a set of practical tools drawn from field practices and a step-by-step pathway to plan and implement negotiation processes in a structured and customized manner.</p> <p><i>The CCHN Field Manual on Frontline Humanitarian Negotiation is available online and for download at no cost. A hard cover print version can be purchased at <a href="http://www.frontline-negotiations.org">www.frontline-negotiations.org</a>.</i></p>
	<p>The <b>CCHN Negotiator Handbook</b> offers the collection of updated CCHN tools for direct use in current negotiation processes. It outlines how to apply each tool of the <i>CCHN Field Manual</i> with background guidance and step-by-step instructions. All tools are provided in full-page printable format in addition to the supporting information so that frontline negotiators, the support team and mandators can use and share the tools in their everyday work. The <i>CCHN Negotiator Handbook</i> also serves as the point of reference for participants during the CCHN Peer Workshop.</p> <p><i>The CCHN Negotiator Handbook is available for download at no cost online. Printed copies can be purchased at <a href="http://www.frontline-negotiations.org">www.frontline-negotiations.org</a>.</i></p>

	<p>The <b>CCHN Case Studies</b> present the application of the negotiation tools of the <i>CCHN Field Manual</i> to real-life situations from the field that have been synthesized and decontextualized for the purpose of the exercise and maintaining confidentiality. Each case study takes the reader through a negotiation process, illustrating the implementation of key tools at the different stages of the process.</p> <p><i>Case studies are available online for members of the CCHN's global community of frontline negotiators. Access information will be shared separately.</i></p>
	<p>The <b>CCHN Facilitator Handbook</b> provides all the necessary information and references to facilitate a peer workshop on humanitarian negotiation with colleagues. It accompanies CCHN Facilitators as they build their own capacity to present and use CCHN tools and methods. The CCHN offers regular training sessions to CCHN members to become a certified CCHN Facilitator.</p> <p><i>The CCHN Facilitator Handbook is available online for members of the CCHN's global community of frontline negotiators. Printed copies can also be purchased at <a href="http://www.frontline-negotiations.org">www.frontline-negotiations.org</a>.</i></p>
	<p>Designed for note taking during meetings, the <b>CCHN Negotiator Notebook</b> includes key fact sheets related to humanitarian negotiation and templates from the <i>CCHN Field Manual</i>. With the Negotiator Notebook, users have the essential negotiation tools and concepts always at their fingertips.</p> <p><i>The CCHN Negotiator Notebook is available only in a printed format. It can be purchased at <a href="http://www.frontline-negotiations.org">www.frontline-negotiations.org</a>.</i></p>



**CCHN Connect** is a community-powered online forum on humanitarian negotiation. It provides a platform for humanitarian professionals to discuss challenges and dilemmas of humanitarian negotiations and connect with peers from around the world. The forum is packed full of interviews with frontline negotiators, blog series, research papers and more.

*CCHN Connect is reserved for members of CCHN's global community of frontline negotiators. It can be accessed at [community.frontline-negotiations.org](https://community.frontline-negotiations.org)*

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