CCHN Field Manual on Frontline Humanitarian Negotiation

FRONTLINE NEGOTIATIONS
Centre of Competence on Humanitarian Negotiation

Published by the Centre of Competence on Humanitarian Negotiation (CCHN)

V 1.0 – December 2018

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Disclaimer: The material presented in the CCHN Field Manual on Frontline Humanitarian Negotiation is drawn from independent empirical research on humanitarian negotiation practices based on confidential interviews with field practitioners of humanitarian organizations operating on the frontlines of armed conflicts. 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 endorsed or approved by the Strategic Partners or donors of the CCHN.

"Out beyond ideas of wrongdoing and right doing,

there is a field. I'll meet you there."

Jalāl ad-Dīn Muhammad Rūmī
Persian poet, Sufi mystic. (AD 1207-1217)

PREFACE

It is a pleasure and a great privilege to introduce the *CCHN Field Manual on Frontline Humanitarian Negotiation*. The *CCHN Field Manual* builds on the collective experience and perspectives of numerous humanitarian practitioners working 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 success of frontline negotiations depends largely on the ability of humanitarian professionals to build robust relationships with belligerents in the midst of armed hostilities. Frontline environments are, however, challenging places to engage in fair and principled transactions. Humanitarian negotiation often involves significant compromises balancing the interests of the parties to the conflict with the ones of the affected populations. Thanks to the perseverance and agility of humanitarian negotiators, neutral and impartial assistance is being delivered to millions of people in dozens of war-affected contexts every day.

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 in accordance with the guidance of the *CCHN Field Manual*, frontline 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.

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 operational environment, culture, 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 personal skills and sensitivity of each negotiator underpinning his or her ability to build the necessary trust with the counterparts in adversarial circumstances. The security and safety of frontline operations depend on their aptitude to adapt their objectives to the operational environment 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 those of the Harvard Advanced Training on Humanitarian Action, in particular Rob Grace and Anaïde Nahikian. It also benefited from the generous support of its donors, in particular, the Swiss Department of Foreign Affairs-Human Security Division, the German Federal Ministry of Foreign Affairs, and the Swedish Ministry of Foreign Affairs. 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 colleagues whose constant and diligent work of elaborating tangible negotiation tools and methods based on current field practices are 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

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Introduction

Introduction to the CCHN Field Manual

The **CCHN Field Manual on Frontline Humanitarian Negotiation** proposes a comprehensive method to conduct humanitarian negotiation in a systematic and organized manner. It provides a step-by-step pathway to plan and implement a negotiation strategy based on a set of practical tools designed to:

- Analyze negotiation environments;
- Assess the position, interests, and motives of all parties;
- Build networks of influence;
- Define the terms of the negotiation mandate and clarify negotiation objectives;
- Set limits (***red lines***) to these mandates; as well as
- Enter into transactions in a thoughtful and tactical fashion.

The Manual further offers various exercises informed by field practice to test one's knowledge and experience in addressing some of the recurring difficulties and constraints confronting humanitarian negotiators. It finally provides guidance to facilitate the reflections and exchanges of views among humanitarian professionals on the challenges and dilemmas of frontline humanitarian negotiation.

The ultimate objective of the **CCHN Field Manual** is to connect humanitarian professionals with the wealth of experience and reflections emerging from a large network of field practitioners operating in conflict environments. By offering a simple experiential model, the **CCHN Field Manual** aims to become an essential part of the toolkit of humanitarian professionals seeking the consent of civil authorities, military and peacekeeping forces, non-state armed groups, as well as affected communities in the deployment of life-saving assistance and protection programs.

Defining humanitarian negotiation

Humanitarian negotiation is defined as a set of interactions and transactions with parties to a conflict and other relevant actors aimed at establishing the presence of humanitarian agencies in conflict environments, ensuring their access to vulnerable groups, and facilitating the delivery of assistance and protection activities. These negotiations take place at the field level for the most part and involve both state and non-state actors. They include an advocacy component relative to the protection of affected populations as well as a transactional component in setting the logistical and tactical parameters of humanitarian operations.

The **CCHN Field Manual** has been designed to serve as a complementary reading to the existing literature on humanitarian principles and action. It will be most useful to practitioners who already benefit from some years of operational experience in conflict environments. It assumes a core knowledge of humanitarian action, principles, and law, as well as some degree of proficiency in managing humanitarian programs. Using these standards, it focuses on the negotiation strategies and tactics of field managers and operators with the understanding that other institutional principles and policy frameworks are also at play determining the relevant operational objectives. In other words, the **CCHN Field Manual** is not meant to define or posit specific objectives of humanitarian organizations in a programmatic sense (i.e. what one should negotiate or not) but to present systematic tools and methods of humanitarian negotiation to improve negotiation outcomes

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

Frontline humanitarian negotiations often take place in highly contextual and confidential environments and are driven by personal relationships. However, humanitarian negotiators, even the most experienced, often work in isolation from each other and enjoy only limited access to information and discussions on peer practices. Humanitarian professionals increasingly recognize commonalities in their negotiation practices in complex environments. The number and variety of humanitarian actors and their growing interdependence on the ground imply a greater need for sharing of experience and peer learning to address the challenges of negotiating on the frontlines.

Engaging in critical reflections on the common dilemmas of humanitarian negotiation

A core tension persists around the role that negotiation plays in humanitarian action. On the one hand, many feel that humanitarians have limited options for negotiation 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 maintaining access to affected populations, protecting the security of staff, and cooperating with local actors by finding the proper compromises to accommodate expectations of counterparts. As a result, humanitarian actors find themselves caught between the need to respect humanitarian principles and the necessity of striking deals with all the parties in order to fulfill organizational mandates.

based on the experience and wisdom of this growing community of practice.

Many readers will find the tools and observations in this Manual quite familiar. The content of the **CCHN Field Manual** has been informed by the testimonies of numerous field practitioners who have shared their experiences and lessons learned in the context of CCHN activities over recent years. By facilitating the dissemination of past experience across time and various locations, the CCHN emphasizes its belief that negotiation is more than a technique that one can learn out of books and workshops. It is also more than the cumulation of personal experiences of isolated colleagues. Negotiation capabilities are the product of the collective humanitarian practice of a community of professionals shared in a privileged manner across agencies and analyzed critically over the years. Learning by doing and learning by sharing are the two most important avenues to acquire the required knowledge and necessary experience to

engage in frontline humanitarian negotiation. Sharing negotiation experiences and learning from each other often involves comparing alternative pathways, reviewing errors, analyzing misjudgments, or addressing the lack of information. The CCHN encourages humanitarian organizations to create a safe and positive environment in which negotiation experience can be shared and learned from among practitioners. Readers are invited to join such discussions in the course of CCHN regional and country-level workshops as well as peer group activities for field practitioners. Larger the community of practice, deeper the negotiation experience of its members will be.

As the CCHN continues to expand the circle of participants through its peer activities, it is expected that this experiential material will contribute to improving the capacity of humanitarian organizations to seek access to populations in need in increasingly challenging situations.[1]

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

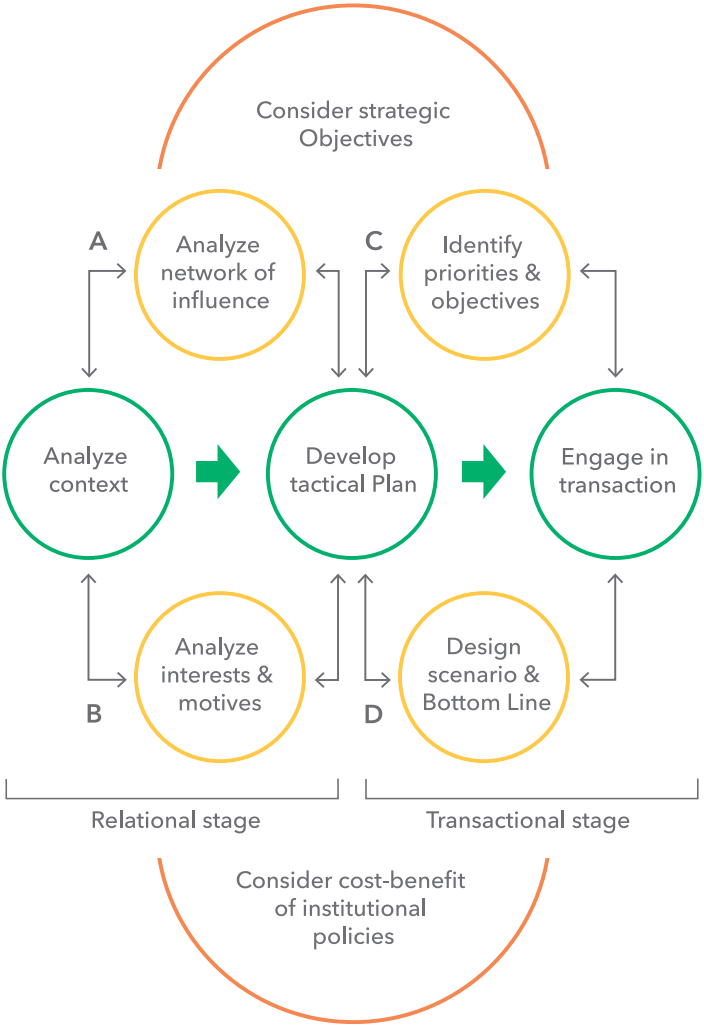
On the origins of the CCHN Field Manual

The **CCHN Field Manual** builds on an empirical analysis of the negotiation practices of several hundreds of humanitarian professionals operating in conflict situations. This analysis started with an informal meeting of over 25 frontline negotiators of the ICRC in Naivasha, Kenya, in November 2014, during the course of which participants reflected over several days on the common features of their negotiation practice. While negotiation has always been part of humanitarian action, it has not been the focus of much attention from a professional and experiential angle as humanitarian organizations were often uneasy about discussing their negotiation practices and were even less open to a dialogue on the areas of compromise they engaged in to secure access to affected populations. With the creation of the CCHN in late 2016, this reflection has since expanded to include humanitarian professionals from various agencies and organizations operating on the frontlines, which further nurtured the elaboration of a common framework of analysis to plan and review specific negotiation processes across the humanitarian sector.

The **Naivasha Grid** has become in recent years both an analytical tool to observe and review humanitarian negotiation processes, as well as a map to plan the successive tasks, roles, and responsibilities between the frontline negotiator, his/her support team, and the mandator and organization responsible for framing the negotiation exercise in a given mandate.

The **Naivasha Grid** serves as a template to organize the learning process of the **CCHN Field Manual**. While it provides a logical pathway based on recent practices, it should not be seen as an absolute model for the planning of a negotiation across the humanitarian sector. In fact, several important aspects of the process have been omitted in the **Naivasha Grid**, including the assessment of needs, the design of programs, internal negotiation processes with the mandator and within the organization hierarchy and humanitarian system, and the implementation of the agreements which in turn inform further field negotiation efforts. 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**.



Naivasha Grid : Planning a Negotiation Process

On the structure of the CCHN Field Manual

The **CCHN Field Manual** is designed to provide easy access to both first-time readers as a comprehensive methodology and to more regular users as a recognizable pathway with detailed steps. The **CCHN Field Manual** follows the distribution of roles and responsibilities recognized in the **Naivasha Grid** by the CCHN community over 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 role of the NEGOTIATOR'S SUPPORT TEAM in accompanying him/her in the planning of the process and contributing to the review of the negotiation; and
- The **Orange** section focuses on the responsibilities of the MANDATOR as part of the institutional hierarchy of the organization defining the terms of the mandate and reviewing the results of the negotiation.

For each section, a series of modules present the individual tools and methods of humanitarian negotiation. Each of these modules is, in turn, articulated into segments addressing successively conceptual and practical aspects of the tools, as well engaging readers to exercise their skills and share their experience. This model draws from the research of Dr. David Kolb, an American scientist who, in the 1980s, developed a conceptual framework for professional development programs. This model follows a pattern of handling professional knowledge and experience through both a deductive (from generalized principles or hypothesis to specific conclusions based on evidence) vs. inductive (from specific observations to broad generalizations and theories) method as well as through conceptual vs. practical lenses. In an interpretation of the **Kolb Model**, the **CCHN Field Manual** presents each module alternating:

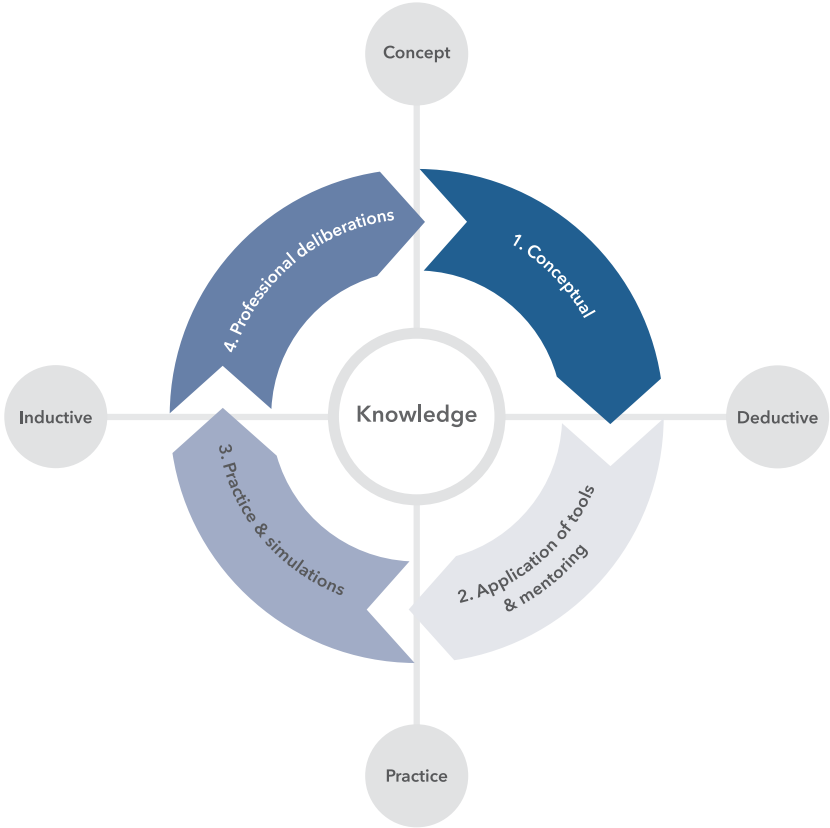


Figure 2 :
Source : Inspired by Kolb, D. A. (1984).
Experiential learning : Experience as the source of learning and development (Vol. 1).
Englewood Cliffs, NJ : Prentice-Hall.

- Segment A : Offering a conceptual definition of the individual tool or method;
- Segment B : Providing a step-by-step presentation of how to apply the tools and methods;
- Segment C : Drawing short exercises to test the tools based on practical cases; and,
- Segment D : Guiding deliberations around the implementation of these tools.

Each segment of the learning process of the module will be presented in the top corner of the individual module under a circle as follows:

Readers are encouraged to complete each segment of the circle from whichever angle of the module they feel most comfortable to begin with. It is understood that each reader may be inclined to start from any of the four angles (concept, tools, cases, or reflective discussions) due to his/her personal inclination as a learner. This Kolb-inspired method is designed to accommodate individual preferences in the reader's professional development. By completing the four segments, the reader will be able to integrate each tool and practice in his/her mental tool box in a proactive manner.

The CCHN Field Manual as an ongoing professional development platform

Finally, a word on the development process of the **CCHN Field Manual**. This first 2018 edition of the Manual has been informed by the results of hundreds of discussions and formal interviews of field practitioners from around the world. These conversations among professionals are ongoing and deepening as the community of practice expands across field operations and faces increasingly complex situations. As much as the **CCHN Field Manual** is informing, informed by, and framing these profes-sional discussions, it represents only the latest rendering of the main lessons learned within this community. It is expected that the **CCHN Field Manual** will remain a living platform to share experience both within its pages and in multiple meetings and workshops around the humanitarian world.

The CCHN is committed to updating the Field Manual regularly, further detailing and expanding the negotiation tools presented in the Manual from its first edition in 2018 onward with the support of the members of this growing community of practice.

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 succinct pathway to plan effective negotiation processes for humanitarian professionals on the frontlines. This section focuses primarily on the **specific tasks pertaining to the individual humanitarian negotiators** assuming the support of their team in working toward the planning and review of the negotiation process (see Section 2 **Yellow**) and developing the framing and guidance of the mandator of the negotiation and the institutional hierarchy of the organization (see Section 3 **Orange**).

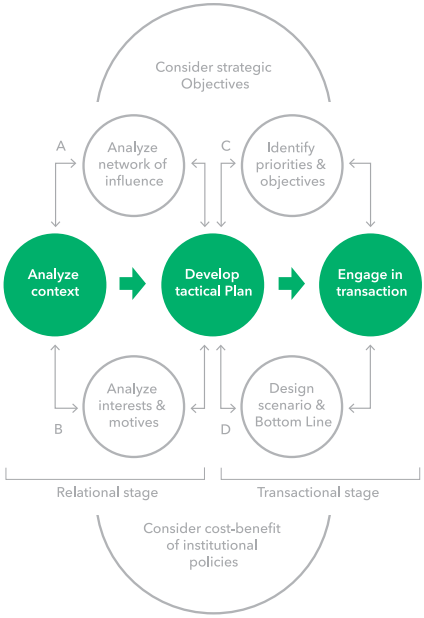
> The success of a humanitarian negotiation is contingent on the quality of both the personal relationship established between representatives of the humanitarian agency and their counterparts and the use of the respective networks of influence.

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 as well as Harvard's Advanced Training Program on Humanitarian Action (ATHA), one can observe that:

1. Humanitarian professionals operating on the frontlines are primarily responsible for establishing and maintaining these relationships 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;

Figure 2 : On the specific tasks of frontline humanitarian negotiators



3. Understanding the context of the negotiation is therefore a critical step to prepare a humanitarian negotiation and engage with the counterparts in terms of access to the population in need, delivery of assistance, monitoring and protection activities, as well as enhancing the safety and security of staff and premises.

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

1. Analyzing the environment and context in which the negotiation 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. Engage in fruitful transactions providing benefits on all sides.

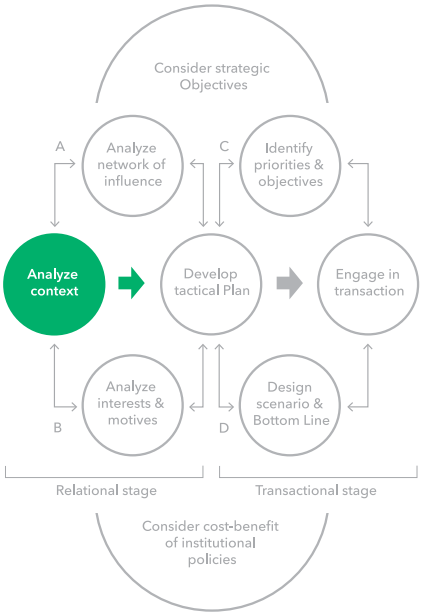
This section provides critical tools to assist frontline humanitarian negotiators in the elaboration of their negotiation approach across these three steps.

CONCEPTUAL DEFINITION

Analyzing context is an integral part of the work of humanitarian professionals in the field. This task is of particular importance in frontline humanitarian negotiation.

A critical aspect of such a task is the development of a well-articulated understanding of the negotiation environment in which the negotiator aims to build trustful relationships with the relevant counterparts and to exert the necessary influence on

their positions and policies. This analysis prepares the ground for discussions with the negotiator's team on the position, interests and motives of the counterparts as well as the mapping and leveraging of the network of influence as one considers the right tactics to move the relationship and negotiation forward, as presented in the Naivasha Grid.



The tools for these elements are presented in the next section on the role and tasks of the negotiator's support team (see Section 2 **Yellow**).

Assessing the objective vs. subjective environment of a negotiation

Analyzing a context through a negotiation lens means integrating the counterparts' subjective perspectives into the equation, fully understanding that their vision of reality is an important building block of the relationship.

Since relationships with counterparts are social constructs, the analysis of a negotiation environment cannot be measured only in objective scientific terms – i.e., getting the "true facts," the "real" story – independently from cultural, political, or social biases. In conflict environments, narratives about a given situation, the causes of the conflict, its actors, or the status and needs of the population can vary significantly. At the core of political conflicts, one will always find an attempt by a party to overrule a competing party's narrative about the facts or social norms of a situation. Hence, conducting a context analysis in a negotiation process is not only centered on the establishment of an "objective understanding" of the environment but on building a well-articulated understanding of the multiplicity of "subjective appreciations" of a given environment by the dominant actors.

This "kaleidoscopic vision" of facts and social norms of a situation can be easily confusing, especially in times of crisis when the success or failure of entire operations may depend on the right appreciation of the operational context based on hard "objective" evidence (i.e., who is in charge, what is the power play between the actors, what are the needs of the population, where are the security risks, etc.). **Context analysis** in a negotiation process should therefore not be confused with the operational and technical analysis serving the planning of an operation. In a negotiation process, reality is composed of layers of subjective appreciations of facts and norms that inform the vocabulary and orientation of the negotiation process where the goal is to seek the consent of counterparts to operate in often contentious environments.

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 divergence or convergence norms associated with the situation.

Such a negotiation environment requires not only a cultural and social fluency to understand the true meaning of the counterparts' narrative, but also an ability to integrate often contradictory assertions into the agency's own analysis and discourse as one strives to become pragmatic. Hence, a "famine" situation can be described in terms of an objective 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 political, cultural, and social meaning to a dominant group controlling access to food.

The same contextual analysis goes for determining features of an affected population in terms of age (who is a child), gender (expected role of women), social status (who is actually in charge of respective groups), allegiances, etc., which all are understood in definite objective or legal terms that can be quite different in the political, cultural, and social climate of the negotiation.

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 establishing a shared understanding among the parties of the technical and factual aspects of an operation (e.g., how many refugees are in need of assistance, when they should get the assistance), while assuming a convergence of views on the normative aspects of a situation (e.g., who are refugees, what are their rights to assistance);

2. Normative negotiations aimed at establishing a convergence of views among the parties regarding expected behaviors 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), while assuming a common understanding regarding the factual and technical aspects of an operation.

For a negotiation to take place on a contentious issue, several agreed facts and converging norms must be in place. Any negotiation entails a number of intertwined agreements and disagreements on multiple facts about the current situation and norms on expected behaviors. Paradoxically, to disagree substantively and efficiently on some elements, parties need to agree, even if implicitly, on other elements.

Definition of a fact: Facts are observable and objective elements considered to be true – things known to have happened or assertions based on an objective experience.

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

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 this population
- Obligations of the parties
- Legal status of the population
- Priority of the operation
- Etc.

Without some agreements on limited facts or norms, the negotiation cannot focus on the issue at stake and can easily become pointless. Rarely will parties disagree on every fact and norm. If they do disagree on everything, it is probably because they have no intent of engaging in a negotiation process in the first place. On the contrary, recognizing some of

these implicit areas or "islands" of agreements, even on what may appear as trivial issues, may help to establish a pathway for a constructive and trustful dialogue, especially in a tense environment. While cultural settings vary, many negotiators regularly refer to shared interests in sports, food, or music, or an appreciation of patience and reflection over tea, as turning points of a relationship in a negotiation process. From there, frontline negotiators can always seek to establish a dialogue on some agreed facts or convergent norms as a point of departure in a negotiation process, even in the harshest circumstances, based on the analysis of the negotiation environment and the counterparts, and then try to expand this zone of agreement/convergence as the dialogue progresses and the trust builds up.

Humanitarian negotiations are therefore not solely motivated by the interests of the parties to reach a set of transactions at the end of the process (access vs. no access). They seem to rely on a more in-depth sense of ownership of the relationship and buy-in to the process itself as they expand the areas of agreement on agreed facts and converging norms related to the issue at stake (e.g., access to a camp, delivery of assistance, protection of a population), especially in situations where differences seemed at first insurmountable. Frontline negotiation occurs in the absence of the colloquial market environment where parties assume facts about products and converging customary norms on the main terms of commercial exchanges. Frontline negotiators must establish an agreeable framework of the exchange from the human relationship up, building the necessary trust on a shared experience exploring the relevant facts

Having a clear mandate with well defined red lines and go through a continuous cost-benefit analysis of the potential agreements/compromises you may reach, are essential tasks and responsibilities of a normative negotiation.

and discussing expected "normal" behaviors. The context analysis will inevitably reveal limits to the initial zone of agreement/convergence that frontline negotiators will need to consider.

Once one has been able to sort out the facts and norms, the next step of the analysis is to understand which of these facts are being agreed to or contested or which norms are being convergent or divergent with the counterparts.

Example 1

Factual Negotiation: Contested fact/convergent norm

In a discussion with the representative of the 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 the IFR's assessment that there is severe malnutrition among the displaced population in a specific part of the 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. 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.

In Example 1, the counterpart is contesting the fact that there is severe malnutrition within the IDP camp. IFR's representative argues that the food should be distributed among members of the host community where malnutrition is, in his view, "real." The focus of this factual negotiation with 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 of helping the population most in need and the recognition of the experience, expertise, and mandate of IFR on food security.

Example 2

Normative negotiation: Recognized fact/divergent norm

Several hundreds of young men 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 the INGO Children Protection International (CPI) that they believe that a boy becomes an adult by joining the community militia and following a military training from the age of 14 years as a cultural sign of bravery and courage.

In Example 2, the fact that 14- to 17-year-old young men are recruited into armed militias is not in question. The issue of the negotiation is to what extent and for whom (e.g., the youth themselves or the community affected by this practice) the recruitment of these young persons is "normal" – or should it be determined in the eyes of the international community whose law provides a legal adulthood status of 18 years old? When one is facing a normative negotiation about the recruitment of children under 18 years of age,

the focus of the negotiation will be different from and more sensitive than the first example as it deals with political, social, or cultural norms which are more difficult to negotiate. 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 access to education, their health status, etc.). One may argue that such dialogue can take place only with recognition of the factual benefit of youth recruitment (bravery and adult rituals) as well as an honest, fact-based discussion of some of the negative impact of being part of the militia.

To engage in a normative negotiation, one has to understand that norms are essentially shared beliefs of a community or society. Normative negotiation in this case implies a conflict of norms between the ones of CPI (as a derivative of international law on the recruitment of persons from 18 years onward) and the norms of the counterparts (recruitment of persons from 14 years onward). These are two sides believing in two distinct desired behaviors. There is thus a tension between these two norms and societies. As a negotiator, one's role is not to resolve this normative tension in the abstract but to find an area of compromise in the particular case and find pragmatic ways to prevent the recruitment of children by promoting acceptable alternatives and limit the negative impact of child recruitment in a specific community.

APPLICATION OF TOOLS AND METHODS

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.

SITUATION 1

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 between Country A and Country B.

Country B has denied access to its territory, arguing that these persons have no right to enter its territory. Representatives of Country B doubt that there are 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.

STEP 1

Sorting facts and norms

The first step is the identification of the key facts and norms of a humanitarian situation drawing from the narrative of the parties to the negotiation process, i.e., the humanitarian agency and its counterpart(s). Once these main facts and norms have been identified, one should determine facts that are agreed vs. contested, and norms that are convergent vs. 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 :

One needs first to identify:

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 the no man's land between country A and Country B.

Country B has denied access to its territory, arguing that these persons have no right to enter its territory. Representatives of Country B doubt that there are 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 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.

INTERNATIO

STEP 2

Determine the focus of the negotiation

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:

AGREED FACTS	CONTESTED FACTS	CONVERGENT NORMS	DIVERGENT NORMS
There are displaced persons from Country A in the no man's land	It is not clear how many displaced are currently in the no man's land and where they are located.	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.
People are blocked in the no man's land, in a dire situation in terms of shelter and nutrition.	Who is responsible for the severe malnutrition?	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?
The location of the no man's land.	Are they civilians vs. armed elements? Even if there are armed elements, what is the potential threat of allowing these people in Country B?	People have a right to flee armed violence.	No one has a right to enter Country B simply because they flee armed violence
There is little prospect of improvement of the situation without immediate access to the displaced.	How likely can access from Country A be arranged in the near future?	Priority of any government should be the security of its nationals.	No one has a right to enter Country B simply because they flee armed violence

Every negotiation is composed of areas of agreement and areas of disagreement. The point is to identify the areas of agreement and decide if one should focus on negotiating factual issues through the collection of data and building on shared norms or focus on negotiating normative issues shaping a new consensus and building on shared understandings of facts.

In this particular case, there are strong indications that the negotiation would be more normative than factual. The main issue at stake is the right of a humanitarian organization to cross the border of Country B into the no man's land to provide assistance to a population in need, which is a normative issue, and not so much about the features of the population. Even in the best-case scenario of agreed facts, CPI would not get access because of a normative divergence on its right of entry across the border of Country B. While there are some disagreements or need of clarification on facts, these factual disagreements are not central to the negotiation.

In such case, the negotiator can organize his/her points, as illustrated in the table below, from (1) the most agreed facts that can be stated, to (2) the facts that should be clarified, (3) underlining the few shared norms, and then (4) identifying the areas of normative divergence as the focus of the negotiation.

UNHCR
UNHCR

1. Points of agreement to start the dialogue	2. Points to be clarified with factual evidence	3. Points to be underlined as convergent values	4. Points of divergence on norms to be negotiated
AGREED FACTS	**CONTESTED FACTS**	**CONVERGENT NORMS**	**DIVERGENT NORMS**
There are displaced persons from Country A in the no man's land	It is not clear how many displaced are currently in the no man's land and where they are located.	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.
People are blocked in the no man's land, in a dire situation in terms of shelter and nutrition.	Who is responsible for the severe malnutrition?	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?
The location of the no man's land.	Are they civilians vs. armed elements? Even if there are armed elements, what is the potential threat of allowing these people in Country B?	People have a right to flee armed violence.	No one has a right to enter Country B simply because they flee armed violence
There is little prospect of improvement of the situation without immediate access to the displaced.	How likely can access from Country A be arranged in the near future?	Priority of any government should be the security of its nationals.	No one has a right to enter Country B simply because they flee armed violence

Facts of the case about the existence of the 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 territory B, and what are the responsibilities toward this population.

STEP 3

Elaborating the point of departure of the dialogue

Building on this analysis of the context, the humanitarian negotiator can set the terms of the discussion from the outset, enabling the building of a relationship with the counterpart as one of the key goals of generating a transaction and allowing the organization to operate in the environment.

In this particular case, one may consider as a point of departure :

1. Enquiring 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 agreement, one may consider building a rapport on the humanitarian values of assisting these populations and clarifying the threats associated with humanitarian access to the populations in need from Country B.

Planning of a factual negotiation

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.

Here is a slightly different narrative about the same situation with a specific reading of the representatives of Country B that would lead to a factual negotiation assuming a greater convergence of norms:

SITUATION 2

SAME CONTEXT AS SITUATION 1

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

New elements: Country B has denied access to the no man's land that it considers as a closed military area. It rejects any claims that civilians are blocked at the border, arguing that only few tribal elements as well as rebel groups are roaming along the closed border.

Humanitarian organizations are seeking access to the population in need from the territory of Country B as the nutritional situation in the makeshift camp has been deteriorating steadily over the past few days.

Country B is rejecting these appeals, arguing that 1) there are no civilians in this area; and 2) this is an area of military operation that precludes the presence of humanitarian organizations.

Based on earlier statements, Country B would most probably fulfill its humanitarian obligations in cases of demonstrated humanitarian needs, including cross-border assistance and monitoring. Country B has a record of welcoming genuine refugees but has rejected the entry of any rebel elements or their tribal family members as they pose security and diplomatic risks.

In such cases, the sorting of facts and norms, as well as plans for the dialogue, would look like this:

Sorting facts and norms

AGREED FACTS	CONTESTED FACTS	CONVERGENT NORMS	DIVERGENT NORMS
There is a no man's land at the border of Country A and Country B.	There are people blocked in the no man's land. Who are these people? How many of them are in the area?	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 agencies have a right of access to the no man's land to monitor the situation. How can one facilitate access to the area without creating security risks?
The border is closed. This is a dangerous area where military operations are underway.	How dangerous is the area? How long will the military operations last? When can humanitarians have access to the area?	We should not allow people to die from starvation.	Who is responsible for providing for the needs of the population?
There are people roaming in the area.	Are they civilians or armed elements?	Humanitarian organizations have a right of access to people in need under international law.	No one has a right to enter Country B simply because they flee armed violence.
There is little prospect of improvement of the situation without immediate access to the people in the area.	What is the potential threat of allowing these people into Country B?	Every innocent civilian has a right to seek asylum and be protected from persecution.	How can one sort genuine refugees from armed elements trying to infiltrate host countries?

Determine the focus of the negotiation

In this revised version, there are strong indications that the negotiation would be more factual than normative. Country B denies the existence of the population issue and implicitly recognized its humanitarian obligations. Norms of the case about access of a humanitarian organization to populations in need and Country B's obligations to prevent starvation or the maintenance of the right of asylum for genuine refugees are mostly convergent with the ones of the humanitarian agency. Some clarification of how these norms can be implemented professionally (fourth column) in the particular context could help anchor the dialogue with the counterpart. The focus of the negotiation per se will be on the factual issues at stake, namely, finding out how many civilians are in the no man's land and what are their actual needs. The essence of the negotiation will be about the nature and validity of information on the situation supported by evidence that is seen as legitimate by both sides.

In such cases, the negotiator can organize his/her points from (1) the most convergent norms that can be stated, to (2) the norms that should be clarified, (3) underlining the shared understanding of facts, and then (4) identifying the factual issues at stake for the negotiation.

1. Points of agreement to start the dialogue	2. Points to be clarified with reference to professional standards	3. Points to be underlined as agreed facts	4. Contested facts to be negotiated with proper evidence
CONVERGENT NORMS	**DIVERGENT NORMS**	**AGREED FACTS**	**CONTESTED FACTS**
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 agencies have a right of access to the no man's land to monitor the situation. How can one facilitate access to the area without creating security risks?	There is a no man's land at the border of Country A and Country B.	There are people blocked in the no man's land. Who are these people? How many of them are in the area?
We should not allow people to die from starvation.	Who is responsible for providing for the needs of the population?	The border is closed. This is a dangerous area where military operations are underway.	How dangerous is the area? How long will the military operations last? When can humanitarians have access to the area?
Humanitarian organizations have a right of access to people in need under international law.	No one has a right to enter Country B simply because they flee armed violence.	There are people roaming in the area.	Are there armed elements among the civilians vs. other armed elements? Can they be disarmed?
Every innocent civilian has a right to seek asylum and be protected from persecution.	How can one sort genuine refugees from armed elements trying to infiltrate host countries?	There is little prospect of improvement of the situation without immediate access to the people in the area.	What is the potential threat of allowing these people in Country B?

Elaborating the point of departure of the dialogue

Building on this analysis of the context, the negotiator should set the terms of the discussion from the outset, enabling the building of the relationship with the counterpart as the ultimate goal of generating a transaction allowing the organization to operate in the environment.

In this revised 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.

PRACTICE AND SIMULATIONS

This segment offers the opportunity to readers to exercise their analytical skills.

Three short examples from negotiation practice are presented and the templates are set for readers to implement the analytical tools elaborated above.

CASE 1

DIVERSION OF AID IN COUNTRY A

Food Without Borders (FWB) is planning to deliver food rations every three months for a period of one year to over 20,000 malnourished persons in an inner district of Country A.

As part of its negotiation of access to the district, FWB is seeking the support of the local governor and administration to organize the registration process and delivery of assistance in the district. The local governor is asking for compensation for the work of his staff through the allocation of 1,000 rations every three months to be handed over to the governor's office on the day of delivery, explaining that it is normal for every staff member to be paid for their efforts. FWB objected to this arrangement, considering that organizing the delivery of assistance is part of the public function and responsibility of the local administration. In addition, there is not enough food assistance for all the malnourished people.

FWB failed to secure a formal agreement on compensation with the local governor, but both parties agreed to go ahead with the delivery in view of the emergency needs in the district. On the day of the delivery, local militia men under the control of the political party of the governor seized 1/10 of the food assistance as taxation for the delivery of the assistance. This food assistance is sitting in the warehouse of the local governor. FWB decided to suspend its delivery in the district, until the situation has been clarified. You are mandated to find a solution to this situation.

STEP 1

Sorting facts and norms

AGREED FACTS	CONTESTED FACTS

CONVERGENT NORMS	DIVERGENT NORMS

STEP 2

Determine the focus of negotiation

1. Factual negotiations aimed at establishing a common understanding among the parties on the technical aspects of a situation or operations while assuming a convergence of views on some normative aspects of a situation;

2. Normative negotiations aimed at establishing a convergence of views regarding behaviors of the parties while assuming a common understanding among the parties regarding the factual and technical aspects of a situation.

STEP 3

Elaborating the point of departure of the dialogue

a) Agreed facts or convergent norms:

1. _____
2. _____
3. _____
4. _____

b) Points to be clarified:

1. _____
2. _____
3. _____
4. _____

c) Points to be underlined:

1. _____
2. _____
3. _____
4. _____

d) Issues to be negotiated:

1. _____
2. _____
3. _____
4. _____

CASE 2

PROTECTING A LOCAL STAFFER AGAINST RETRIBUTION

A day laborer of a UK charity, Seed for All (SfA), has been arrested in the morning and detained by the police of the district. He has been suspected of stealing some of the seeds being distributed by the INGO.

In view of the ethnic profile of the day laborer, there are legitimate fears that he could face serious retribution in police custody if he would be detained overnight. There are allegations of ill treatment and forced disappearance by the police circulating within the community.

Questioned by the representative of SfA, the head of the local police station first denied detaining the individual. After some time and several conversations, it appears that the individual was transferred around noon to a remote location deep in the rural areas of the district. The local police chief is keen to maintain a good relationship with the UK charity and argues that the laws of the country have to be respected. It is his duty to ensure that the UK charity can work safely in the district.

You are mandated to find a solution to this problem and get the release of the day laborer before nightfall.

STEP 1

Sorting facts and norms

AGREED FACTS	CONTESTED FACTS

CONVERGENT NORMS	DIVERGENT NORMS

STEP 2

Determine the focus of negotiation

1. Factual negotiations aimed at establishing a common understanding among the parties on the technical aspects of a situation or operations while assuming a convergence of views on some normative aspects of a situation;

2. Normative negotiations aimed at establishing a convergence of views regarding behaviors of the parties while assuming a common understanding among the parties regarding the factual and technical aspects of a situation.

STEP 3

Elaborating the point of departure of the dialogue

a) Agreed facts or convergent norms:
   1. _____
   2. _____
   3. _____
   4. _____

b) Points to be clarified:
   1. _____
   2. _____
   3. _____
   4. _____

c) Points to be underlined:
   1. _____
   2. _____
   3. _____
   4. _____

d) Issues to be negotiated:
   1. _____
   2. _____
   3. _____
   4. _____

CASE 3

LOCATION OF THE HEALTH CLINIC IN A MILITARY COMPOUND

The INGO 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 MHI to move its health clinic to 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 are mandated to find a solution to this problem.

STEP 1

Sorting facts and norms

AGREED FACTS	CONTESTED FACTS

CONVERGENT NORMS	DIVERGENT NORMS

STEP 2

Determine the focus of negotiation

1. Factual negotiations aimed at establishing a common understanding among the parties on the technical aspects of a situation or operations while assuming a convergence of views on some normative aspects of a situation;

2. Normative negotiations aimed at establishing a convergence of views regarding behaviors of the parties while assuming a common understanding among the parties regarding the factual and technical aspects of a situation.

STEP 3

Elaborating the point of departure of the dialogue

a) Agreed facts or convergent norms:

1. _____
2. _____
3. _____
4. _____

b) Points to be clarified:

1. _____
2. _____
3. _____
4. _____

c) Points to be underlined:

1. _____
2. _____
3. _____
4. _____

d) Issues to be negotiated:

1. _____
2. _____
3. _____
4. _____

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the particular tool and facilitate individual and collective reflections on the analysis of contexts in a frontline negotiation.

Points for professional deliberations

1. How should one address the differences of views between one's own organization and those of the counterparts?
2. Ultimately, humanitarian organizations are accountable to their beneficiaries, their donors, and their board for the implementation of their programs and for the respect of international norms. Yet, access to a specific region or population is often contingent on the consent of political actors that may have differing and very specific views about facts and applicable norms. How can one integrate all these expectations into one framework and still remain a trusted counterpart?
3. What is the distinct role of frontline negotiators vs. advocacy and communication officers in an organization? Should humanitarian negotiators advocate for a position in full compliance with international norms and mission of the organization, or indicate a level of pragmatism in its advocacy role?
4. How should one connect operational planning, which is based on verifiable facts, and negotiation planning, which is often based on subjective visions of the parties? Are there limits to building up alternative assumptions to maintain a negotiation process?

5 What is the role of the frontline negotiator in this context as compared to his/her manager and the organization as a whole? Should others carry the responsibility of integrating these various perspectives? What is the ultimate role of the frontline negotiator?

6 In what circumstances should one enable the building up of a relationship with counterparts focusing first on the points of agreement/convergence, vs. in what circumstances should a negotiator focus on the transaction from the start, negotiating on points of disagreement? Why should one focus on building these islands of agreement vs. going directly to the issues at hand and finding a workable compromise at the cost of building a relationship?

7 Are there negotiation situations where there are simply no points of agreement on facts or norms from the start of the process? If this is the case, is negotiation even a possibility?

CONCEPTUAL DEFINITION

To operate in conflict environments, humanitarian organizations depend intrinsically on the acceptance of the parties in control of the population and territory. Ideally, humanitarian negotiators should approach negotiation processes not as an opportunity to gain a tactical advantage over the counterpart (as one could foresee, for example, in commercial or real estate negotiation), but rather as building a relationship that can sustain the pressure of a highly charged security and political environment.

Humanitarian negotiation is centered on a constant effort of frontline negotiators to build a trustful relationship with their counterparts in order to establish a conducive environment for accessing and assisting populations in need.

In this context, the tactical stage of a negotiation is geared toward establishing the basis of a frank and well-articulated 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 benefits, as well as various risks for the parties, the main objective of this stage is to create a viable environment between the parties that will resist time and shifting interests of parties, knowing that the loss of the counterpart's support may have dramatic consequences on the affected population and the security of staff.

Building on the context analysis detailed in the previous segment, the tactical stage of the planning is informed by additional analyses 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, interest, and motives of the counterparts, particularly useful in determining the type of negotiation to be conducted;

2. Analyze and leverage the network of influence, particularly useful in professional negotiation and political negotiations;

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 are optimally part of the role and responsibility of the negotiation team in support of the frontline negotiator and should be informed by discussions within the team in the field based on the observations of its members.

This segment will focus primarily on the tactical angle of the frontline negotiators which involves :

Tool 1 Determining the typology of the negotiation (political vs. professional vs. technical) and adapting the tactical plan accordingly; and,

Tool 2 Ascertaining the personal sources of legitimacy of the negotiator and adapting his/her narrative accordingly.

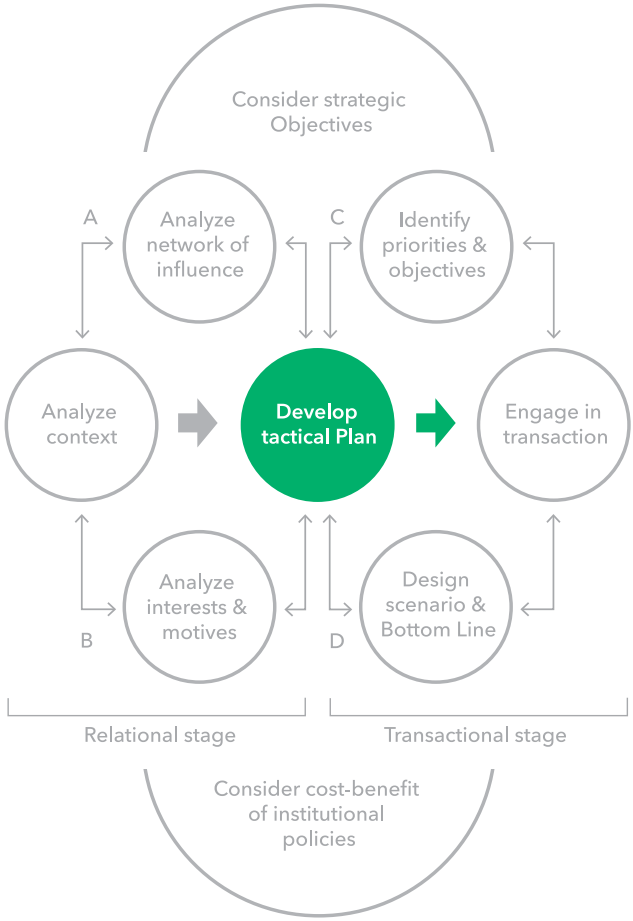


Figure 3 : Tactical plans are informed by the analysis of the negotiation team

TOOL NO. 1 :

DETERMINING THE TYPOLOGY OF THE NEGOTIATION

There are three types of negotiation, each of them requiring a specific method to ensure a successful outcome. 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 of normative negotiations being professional in nature, dealing with professional norms and methods recognized by specific professional circles (e.g., efficiency, accountability, transparency, and all applicable professional norms attached to the activities of the organization in medical or engineering terms).

A key observation of the CCHN empirical survey is that negotiators determine tactics for these three types of negotiations differently in dealing with political vs. professional vs. technical matters. All three types of negotiation aim to establish a space of Common Shared Objectives (CSOs), i.e., a spectrum of possibilities, as opposed to a given limited objective, that parties are ready to consider and trade on.

These three types of negotiations aim to handle specific issues that can be summarized as follows :

	TYPE OF NEGOTIATION	ISSUES AT STAKE	COMMON SHARED OBJECTIVE (CSO)	TYPE OF APPROACH	LEVEL OF RISK
A	Political	Identity/values/ principles/norms Q: **Who** are you? **Why** are you here?	What do we share in terms of values?	"Cut a deal"	HIGH
B	Professional	Method/standard of operations Q: **How** will you work?	What are the professional standards we can both agree on? Who are the professionals we need to mobilize?	"Build consensus" on method among local professionals	AVERAGE
C	Technical	Facts/data of the situation Q: **What** will you do? When/Where/With Whom will you work?	At the technical level, what can we agree on in terms of location, timing, resources needed, logistics?	"Share information & expertise" on the logistical aspects of the operations	LOW

Type A : Political Negotiation

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

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

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

The main objective of a political negotiation on the frontline is the identification of

Common Shared Values

in order to minimize the impact of the divergence of norms between the parties and to allow the operation to take place with the least political risks.

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

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 such as Afghanistan, Somalia, Yemen, etc. Women tend to be quite isolated or even secluded in their domestic environment. Widows that have lost their spouse as an intermediary 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 community, especially if this access is performed by foreigners. Contact with male monitors, foreign or local, may be forbidden in terms of social norms. Negotiating access to war widows may turn out to be a political negotiation seeking ways to address religious concerns while respecting the principle of impartiality, even before handling the technical aspects of the monitoring.

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 space for compromises. However, one may have some leverage deciding the way the organization will communicate in the local environment in order to minimize the visibility or footprint of the operation in the host community, mitigate political risks for the counterparts, and gain better acceptance.

The main recognized tactic of a political negotiation is to "cut a deal" with the counterparts on

the profile of the organization and the impact of its "foreign" 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 underlined that "cutting deals" on identity (e.g., hide the organization's logo), norms (e.g., refrain 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."

For these reasons, humanitarian organizations should be attentive to when a situation calls for sending a qualified negotiator to discuss the political profile of the organization. Professional or technical members of a team may not be able or willing to cut necessary deals, or, conversely, may go too far in cutting deals that threaten the image and reputation of the organization. A political negotiator is someone who can understand well the political situation of the counterparts and find appropriate and practical arrangements to address legitimate concerns of all involved regarding the profile and raison d'être of the humanitarian organization represented.

One should be aware that "political negotiation" does not necessarily mean "high level" negotiation. Political negotiation may take place at the national or local level, or even

at a checkpoint – in fact, everywhere a counterpart asked the political questions : "Who are you ? Why are you here ?" These questions may be satisfied by a short and satisfactory 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 political negotiations. 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 "deal" carries some risks to the organization (e.g., the head of an INGO may not be the right person to agree with a local leader about hiding the logo of the organization on the local clinic due to cultural sensitivities.)

Type B : Professional Negotiation

A 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 a consensus with and among the host professionals regarding the method and standards that will be applied. The approach is to mobilize the support and guid-

The main objective of a professional negotiation is the identification of Common Shared Methods in order to minimze the impact of the divergent professional norms between the humanitarian organization and the professionals operating in the context.

ance of this 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, however, 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.

As with political negotiation, the operational standards and methods of the organization may be misunderstood (e.g., vaccination protocols, assessment and monitoring protocols, accounting and financial standards, etc.) and entail risks if this method is not in line with local practices. As compared to political negotiation, the point is not about "cutting a deal," which may be unsuitable to the professional character of the organization, but rather to find practical arrangements that either build a new consensus around the professional norm of the organization or find ways to accommodate both the national and organizational norms.

Example of a professional negotiation

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

The International Medical Group (IMG) 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 a definite training to limit the health risks of the procedures for the patients.

Several of these local physicians have had only limited training in surgery since very few anesthetics are available in these remote locations. While IMG is ready to send some qualified surgeons to the affected area, the demand for proper surgical training surpasses the capacity of IMG. IMG 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 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 IMG 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.

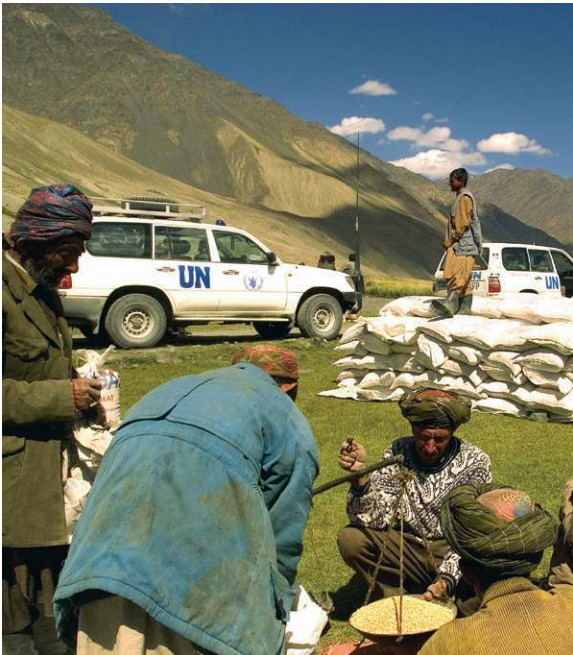
The main tactic of a professional negotiation is to engage with the community of professionals active locally and see how one can adapt or combine local standards with those of the humanitarian organization. These negotiations must be conducted with the direct support of a professional member of the

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.

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

a) The appropriate content of the surgical kit;
b) The support required at the field to use this content optimally;
c) The possibility of providing anesthetic support through IMG 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 collide 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

A Technical Negotiation focuses on the **logistics and other 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 aspects of an operation and its implementation in the field. These 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. These negotiations deal with the 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. These negotiations presuppose existing agreements or common understanding at the political (WHO are you, and WHY are you here) and the professional level (HOW do you plan to operate ?)

The main objective of a technical negotiation is the identification of Common Shared Objectives about the factual aspects of the situation and the operation.

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, the International Medical Group (IMG) has approached the parties to the conflict to evacuate 22 wounded civilians in need of urgent medical care across the frontline. While the parties distrust each other, they recognize the mandate and professional experience of IMG in conducting such medical evacuations. Both 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 to take place.

The wounded civilians are located in the basement of a abandoned clinic in the center of the city. Several obstacles complicate the access to the clinic. Time is of the essence to evacuate the wounded and secure a safe passage across the frontline. IMG 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 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.

The point here is not, as in the two previous models, about "cutting deal" or "building consensus" on the technical modalities of the evacuation,

but is about agreeing on the fixed technical terms of the specific operation based on the knowledge of the topic and situation of the organization, and seeking the approval of the counterparts. To be sure, these terms will need to be discussed and adjusted so as to respond to the expectations of the parties. Yet, one should be careful about delaying the outcome of the negotiation by focusing needlessly on the wrong method of negotiation. In the case depicted above, the besieged and besieging parties should not be "consulted" on the professional modalities of how IMG should transport wounded in an ambulance (i.e., a professional method to deal with a professional standard) or discuss the humanitarian character of this specific operation and "cut deals" on the profile of the evacuees (value-based issues). 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 coming back to political and professional aspects of the operation.

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

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

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, a party may want to avoid the political pitfalls of 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 negotiation whereby they 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 easily be entrapped in a maze of technicalities by the counterparts, making the former unable

Asserting the level of the 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.

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 unequipped or ill prepared. It catches the negotiator off guard, forcing him/her into an uncomfortable position to improvise at a new level.

In the first example about access to war widows, this is a **political negotiation** that should be undertaken by an experienced negotiator who is aware of the risks and possibilities of cutting a deal in these 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, proposing technical ways to, for example, ensure that war widows will not be alone with the food security monitor.

In the second example about the provision of surgical kits to remote local physicians, this is a **professional negotiation** about 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 the logistical officer in the field agrees to pull some surgical tools, but not the scalpels, 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. This professional issue of the negotiation with the National Health Authority requires the involvement of a health professional since it is actually not about the actual 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 mishandling patients in times of emergency. Balancing 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, in the third example of an evacuation of wounded persons from a besieged area, this is definitely a **technical negotiation**. The critical questions are about the location 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, efforts should be made to "technicalize" the negotiation process. The agreement must be crystal clear to all parties concerned, lest, outside the space and time of the corridor, ambulances will be shot at. In this context, the best negotiator will be a logistician with little appetite for consensual or principled discussions.

Hence, 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 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. Meanwhile, the negotiator can offer to continue the discussion at the previous level.

APPLICATION OF TOOLS AND METHODS

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 as the humanitarian organization is seeking acceptance and access from this counterpart.

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 donors 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 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.

SITUATION 1

MEETING WITH THE MINISTER OF HEALTH

You are having first a meeting 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 enquires about the mission of HfA and the reasons behind the presence of HfA in the country.

STEP 1

Identify the type of negotiation

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. You are therefore faced with a **political negotiation**. Hence, the answers to the questions should be about:

- Who 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 latest questions are important but the answers have not yet been formulated.

SITUATION 2

SAME CONTEXT AS ABOVE

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, which 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 this donor country among the staff of HfA.

STEP 2

Elaborate your narrative

For now, it is important to seek an agreement on the shared values of the operation. 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 with both the host government in terms of 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 enquiring 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.

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 dialogue on the values and norms of the operation that will probably result in some political concessions by HfA on both the logo and the selection of staff. There is no point of raising value-based arguments in a political negotiation if one is unable to compromise on the profile and footprint of the organization in the context.

SITUATION 3

MEETING WITH THE DIRECTOR OF THE HEALTH DEPARTMENT

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 him or her 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.

STEP 1

Identify the type of negotiation

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 (e.g., agreeing on a dosage of 1.5 drops per child) – nor is it to have a technical argument on the impact of immunization campaigns on children where one vs. two drops are dispensed. It is about the conflict between two 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.

STEP 2

Elaborate your narrative

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 you could all agree on. You will work hard to build consensus on the method of HfA. If such agreement cannot be reached, you should work on agreeing on a process to get to 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 parties agree about the "do no harm" professional principle.

SITUATION 4

MEETING WITH THE COMMUNITY LEADER

The Director of Health has agreed for you to proceed. You have thus 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.

STEP 1

Identify the type of negotiation

You are faced with a **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.

STEP 2

Elaborate your narrative

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.

SITUATION 5

SAME CONTEXT AS ABOVE

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 thus send your team for the first vaccination day in a village. You are about to start with the vaccination 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?"

STEP 3

Change the type of negotiation

Your interlocutor is politicizing the negotiation; now it is no longer about facts of the outbreak or the campaign, 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 elders. Bring in if necessary an HfA anthropologist to argue 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 has not much to gain by politicizing this issue. The HfA negotiator should therefore avoid as much as possible engaging on cultural norms with the community leader, even if he/she has the capacity to do so (e.g., a field officer would be a person of cultural influence in the region). On the contrary, the negotiator should try 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.

PRACTICE AND SIMULATIONS

This segment offers the opportunity for readers to exercise their analytical skills regarding the typology of a negotiation.

Three short examples from negotiation practice are presented and the templates are set for readers to implement the analytical tools elaborated above.

CASE 1

OFFERING MEDICAL ASSISTANCE IN COUNTRY A

The International Medical Group (IMG) wishes to launch much-needed medical relief activities in Country A to respond to growing needs among civilians due to armed hostilities in the region. IMG is keen to maintain its neutrality and independence, especially in a conflict environment involving the government of Country A and several armed groups.

The Ministry of Health of Country A appreciates the offer of support but requires that IMG operates as an implementing partner of the Ministry of Health along with other local health organizations. It further requires that IMG hires local health staff designated by the government. The Ministry of Health is concerned that medical assistance from IMG will be diverted to benefit armed groups and boost their influence over the population. Several medical associations have already been created under the sponsorship of armed groups. These organizations are classified as "terrorist charities" by the government. As a result, the government stipulates that it is illegal to provide medical support outside government control.

STEP 1

Identify the type of negotiation

a) What is the issue at stake?

b) What is the question of the counterpart?

c) What is the type of the negotiation? What is the shared values/methods/objectives?

	TYPE OF NEGOTIATION	ISSUES AT STAKE	COMMON SHARED SPACE	TYPE OF APPROACH	LEVEL OF RISK
A	Political	Identity/ values/ principles/ norms		"Cut a deal"	HIGH
B	Professional	Method/ standard of operations		"Build consensus" on method	AVERAGE
C	Technical	Facts/data of the situation		"Share information & expertise"	LOW

STEP 2

Elaborate your narrative

- What is the demand of IMG? How should it be formulated?

- What is the space for a compromise?

STEP 3

Change the type of negotiation

a) At which type/level of negotiation should IMG be negotiating optimally?

b) What are the questions/answers to prepare at that level?

c) How can one argue to move the discussion to that level?

CASE 2

DISTRIBUTING MEDICAL ASSISTANCE IN RURAL AREAS OF COUNTRY A

IMG wishes to plan the delivery of assistance to rural hospitals in Country A. It is keen to provide assistance to people most in need based on its principle of impartiality.

The Ministry of Health requires IMG to present every month a list of all the locations where it would like to provide assistance. The Ministry of Health will negotiate with the Internal Security on behalf of IMG to seek travel authorization for IMG. It may take several months before any answer is received from the Internal Security, and each time access is granted to only a very few hospitals in government-controlled areas that were on IMG's lists. These are by far not the ones most in need of medical assistance, although IMG relief does assist these health facilities to respond to the needs of the population in areas controlled by the government.

STEP 1

Identify the type of negotiation

- What is the issue at stake?

- What is the question of the counterpart?

- What is the type of the negotiation? What is the shared values/methods/objectives?

	TYPE OF NEGOTIA-TION	ISSUES AT STAKE	COMMON SHARED SPACE	TYPE OF APPRO-ACH	LEVEL OF RISK
A	Political	Identity/ values/ princi-ples/ norms		"Cut a deal"	HIGH
B	Professional	Method/ standard of opera-tions		"Build consen-sus" on method	AVER-AGE
C	Technical	Facts/data of the situation		"Share in-formation & exper-tise"	LOW

STEP 2

Elaborate your narrative

- What is the demand of IMG ? How should it be formu-lated ?

- What is the space for a compromise ?

STEP 3

Change the type of negotiation

- At which type/level of negotiation should IMG be negotiating optimally ?

- What are the questions/answers to prepare at that level?

- How can one argue to move the discussion to that level?

CASE 3

CROSSING A CHECKPOINT IN A RURAL AREA OF COUNTRY A

IMG has received the required travel authorization to deliver medical assistance to the Hospital of Aviva in the Northern Province of Country A. A convoy of three trucks proceeds to Aviva and is stopped at a military checkpoint at the entrance of Aviva. The leader of the IMG convoy hands over the travel authorization from the Internal Security to the soldier at the checkpoint. The soldier wants to inspect the cargo and open the boxes of medical assistance. The leader of the convoy refuses, arguing that the cargo was already inspected in the capital and at several other checkpoints.

The commander of the checkpoint shows up quite tense and asks the IMG representative, "Who do you think you are? Why are you here?"

STEP 1

Identify the type of negotiation

- What is the issue at stake?

- What is the question of the counterpart?

- What is the type of the negotiation? What is the shared values/methods/objectives?

	TYPE OF NEGOTIATION	ISSUES AT STAKE	COMMON SHARED OBJECTIVE (CSO)	TYPE OF APPROACH	LEVEL OF RISK
A	Political	Identity/ values/ principles/ norms		"Cut a deal"	HIGH
B	Professional	Method/ standard of operations		"Build consensus" on method	AVERAGE
C	Technical	Facts/data of the situation		"Share information & expertise"	LOW

STEP 2

Elaborate your narrative

- What is the demand of IMG? How should it be formulated?

- What is the space for a compromise?

STEP 3

Change the type of negotiation

- At which type/level of negotiation should IMG be negotiating optimally?

- What are the questions/answers to prepare at that level?

- How can one argue to move the discussion to that level?

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the open challenges and dilemmas of the particular tool and facilitate individual and collective reflection on the analysis of contexts in a frontline negotiation.

Points for professional deliberations

1. How can you best prepare for a negotiation when the type is not clear yet?
2. How and when should you bring up arguments of values and principles? What are the risks associated with bringing up value-based issues? Are there ways to mitigate the risks?
3. Are you able to describe the value-based narrative of your organization?
4. What is your space for compromise on values?
5. When should you bring up a professional argument?
6. What is your space for building consensus on professional norms?
7. What is your space to use your expertise in technical negotiation? Do you have the necessary expertise to conduct a successful technical negotiation?

TOOL NO. 2 :

ASCERTAINING THE SOURCES OF LEGITIMACY OF THE NEGOTIATOR

CONCEPTUAL DEFINITION

This next segment focuses on the **sources of legitimacy of the frontline humanitarian negotiator**.

As mentioned previously, the main objective of the frontline negotiator in the relational stage of the negotiation process is to build a conducive environment for a trustful relationship and fruitful transactions. Tactical aspects of this process focus on the negotiation plan, as discussed above, as well as the perception of the character of the frontline negotiator, to be discussed below.

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 decide ultimately on the scope of access to populations in need.

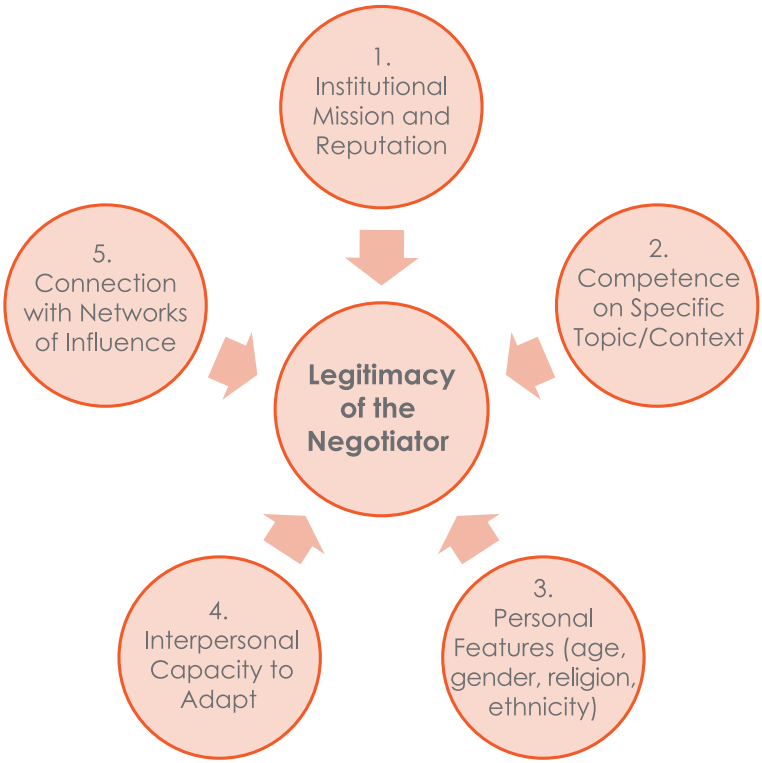
Major concessions are obtained thanks to the personal status and skills of frontline negotiators. Conversely, misperception about the status or insufficient personal skills may be a critical impediment to access in some conflict environments.

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. Fortunately, the point of the conversation and the tactical tool attached

are simpler. The most important skill a negotiator needs to have is to be able to understand the sources of legitimacy 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 balancing one's communication more than shaping a new identity. It is about listening to expectations and resistance from the counterparts, even if it questions personal features, and being ready to adjust the personal and organizational profile in the context up to the point of finding a substitute for a particularly sensitive negotiation.

APPLICATION OF TOOLS AND METHODS

In practice, there are **five sources of legitimacy** in frontline negotiation:



1. Institutional Identity:
Where you are coming from
This first source of legitimacy comes from the institutional mission and reputation of your organization, attributed to you through the mandate you were given from the organization. The authority of your mandate is often expressed by the title of your position or other features of your organization (number of staff, office size, official vehicles, etc.).

2. Topic/Contextual Expertise: Your know-how in/on the particular context/theme

The second source of legitimacy is based on your own professional competence and technical expertise regarding a certain context or topic. It entails the information and knowledge you have about the issue at stake, enabling you to bring added technical value to the discussion.

3. Personal Legitimacy: Who you actually are

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

4. Interpersonal Skills: How you can adapt to new situations

The fourth source of legitimacy has been identified by practitioners as important in humanitarian negotiations. It refers to your capacity to connect with your counterparts by demonstrating empathy and by being able to adapt your behavior regardless of the counterpart or the situation. In other words, it represents your capacity to remain stoic in a tense situation and to be present in the conversation even in fast-changing and challenging circumstances.

5. Network Connections: Whom you know

The last source of legitimacy refers to your ability to connect and refer to networks of influence over the parties to the negotiation. It entails your capacity to mobilize the right people within the environment of your counterpart. If you develop the right connections, your legitimacy will increase in the eyes of your counterpart.

Balancing the sources of legitimacy

Not all sources of legitimacy are of equal value in all circumstances. Understanding these five sources of legitimacy will help you to identify the relative value of each source in a given situation. This model can be used within your team to reflect on how you can increase your authority and legitimacy in order to create a trustful relationship with your counterpart and enhance the chances of success of your negotiation.

A negotiator should map out his/her individual characteristics with the support of critical colleagues and set the terms of that profile in a given negotiation.

For example in a highly normative negotiation with a conservative and suspicious cleric:

a) Legitimacy is derived mostly from sources that can mitigate the risk of disruption from an unknown external organization:
- Personal features (more advanced age, social and marital status, established religion);
- 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:
- 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 **highly conservative 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.

He/she 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:
- 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 comforting 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:
• Interpersonal capacity to adapt (having worked on several types of missions in several capacities may not be the main asset).

Such approach may appear either naïve or too simplistic. The point is not to create a false sense of identity but to make sure that some part of your identity 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; and,;
- 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 staff members of your team, can help in discussing these aspects.

PRACTICE AND SIMULATIONS

This segment proposes some exercises to help you assess and adjust your profile based on an analysis of the sources of legitimacy.

1. Institutional Mission and Reputation :

2. Competence on Specific Topic/Context

3. Personal Features (age, gender, religion, ethnicity)

The first step is to draw a map of your own assets and liabilities based in your current context using the common graph :

4. Interpersonal Capacity to Adapt

5. Connection with Networks of Influence

Building on this assessment, you can see what features are the most and least conducive for the negotiation process under consideration.

Case 1

Negotiation with a community leader in a remote location, suspicious of foreign presence

Aspects that are the most conducive:

Aspects that are the least conducive:

Measures to be taken to enhance the legitimacy of the negotiator:

a) _____

b) _____

c) _____

Case 2

Negotiation with the leader of an armed group, secular, supported by the community

Aspects that are the most conducive:

_____

_____

_____

_____

Aspects that are the least conducive:

_____

_____

Measures to be taken to enhance the legitimacy of the negotiator:

a)

b)

c)

Case 3

Negotiation with the field commander of a radical religious armed group suspected of carrying out kidnapping of foreigners

Aspects that are the most conducive:

Aspects that are the least conducive:

Measures to be taken to enhance the legitimacy of the negotiator:

a)

b)

c)

Case 4

Negotiation with the District Governor of an established public authority, keen to build relationship with foreigners

Aspects that are the most conducive:

Aspects that are the least conducive:

Measures to be taken to enhance the legitimacy of the negotiator:

a)

b)

c)

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions within the negotiation team on the open challenges and dilemmas of the particular tool and facilitate individual and collective reflection on the analysis of contexts in a frontline negotiation.

Questions to be discussed:

1. How far should one adapt to the expectations of the counterparts?
2. How can one remain true to oneself and yet adjust one's personal features? Are we true to ourselves or projecting a constructed image anyway?
3. How can the negotiation team help analyze and adapt the persona of the negotiator?
4. How can such immovable features as age, ethnicity, or gender be leveraged?
5. How does this adaptation fit into some of the affirmative policies of the organization? How can we prioritize access negotiation?

Transaction

CONCEPTUAL DEFINITION

As in any negotiation process, the relationship between the counterparts is driven toward the creation of shared values among the parties to the humanitarian negotiation as well as benefits for third parties, in this case, the affected population. The transactional stage consists of the final step in the process of ascertaining the potential areas of agreement in order to focus on the actual terms of the agreement between the parties. It is the moment when the Common Shared Objectives (CSOs) take the shape of a definite series of reciprocal technical 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 multilateral agreement between the parties concerned with the issue. This agreement can have several formats : oral statements/ written texts, contractual arrangements, memorandum of understanding (MoU), exchange of letters, etc., and have various levels of exposure (confidential 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. These arrangements concern the presence of humanitarian organizations, their access to populations in need, and the deployment of their operations. The commitments may encompass licensing operations, providing landing rights, refraining from obstructing access, etc. In exchange, organizations may agree to the terms of the counterparts regarding their presence (e.g., location of the office, limits in scope of activities, visibility, etc.), the design of their assistance program (e.g., selection of the targeted groups, methods of distribution, role of local authorities, etc.), and discussion of the orientation of their activities requested by the counterparts (operational priority over the coming period, cooperation with other organizations, ministries, security and police forces, etc.).

Beyond producing mutually beneficial commitments, the degree of control of the counterparts over the humanitarian program can translate into political and bureaucratic legitimacy for the host authorities in addition to concrete benefits for people concerned in the field.

About 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 concern the technical dimensions of an operation,

determining when, where, and what the activities of the humanitarian organization entail, such as the opening of a checkpoint or other facilitation of access, or providing data and other statistics on refugees, in exchange for the cooperation of the local authority in the field and compliance with their instructions;

2. **Normative transactions** concern issues of methods and professional standards detailing how and why an operation should take place, such as the objectives of the organization in the country; the terms of, e.g., a vaccination campaign; 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 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 direct or indirect control of the counterparts over the access to the affected populations. Yet, the purpose of a negotiation process is for the parties to get to an agreeable transaction somewhere between the norms of principled access and the reality of access. Such agreement will benefit both sides and, indirectly, the affected populations. It will always involve a set of compromises for the benefit of the counterparts and at the expense of the humanitarian organization. The humanitarian character of the process and the procedure presented in this Manual are elaborated to promote and safe-

guard the humanitarian values and interests in this process in line with the policies of the agencies concerned.

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 1 Naivasha Grid), both of which will be explored in Section 2 Yellow).

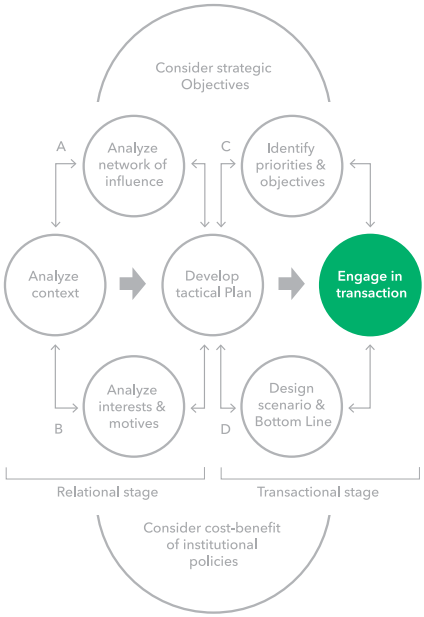


Figure 1 : Informing the transactional stage of a negotiation process

Example 1

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 prison to the visit 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 Committee (IMC) for complete access to all the prisons. Nevertheless, IMC 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 appetite of the negotiators to reach an agreement at the transactional stage.

About the formality of the agreement

Clarity of language will be of great assistance to ensure a proper interpretation of these commitments. Proper contextualization of the agreement will be essential to ensure its implementation in complex environments, ascertaining from the outset possible obstacles in the implementation that would make some of the commitments difficult or impossible to apply, comply with, or enforce.

The quality of a transaction and the success of a negotiation process are therefore not only linked to the meeting of interest and the trust between the parties

The degree of formality of an agreement is derived from the concerns of addressing potential future disagreements on interpretation of the commitments of the parties. In case of diverging views on implementation of the agreement, a written text will offer better support to find a way forward than simply an oral arrangement.

but rely on the **practicality and feasibility** of the terms of the commitments in their implementation. This practical dimension may be of great importance for the organization and the beneficiary of the agreements, but may also come at a cost for the negotiators of both parties. They may share a common interest, in the eyes of the stakeholders and donors, in reaching a positive agreement promptly, but have little personal or institutional benefits

Example 2

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 aircrafts, raising the cost of air delivery due to the necessity of using rotary-wing aircrafts. HfA does not have the budget to charter helicopters. Reaching an agreement on air delivery is of minimal use if air logisticians and administrative planners of the NGO are not part of the negotiation drawing the parameters of a feasible arrangement.

Example 3

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 of the armed group active in the district in exchange for which the family 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, as well as 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 displaced persons camps. The demobilization program failed, and parents complained that there is no school for their children in the IDPO 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 family.

or capabilities in implementing such agreement in the future. It is important therefore to be cognizant of the interests of the parties at all times as they strive to reach an agreement while minimizing potential obstacles and putting pressure on the implementors to find the required solutions.

Once an agreement is reached, a new **phase of implementation** begins which is not technically part of the negotiation process. Compliance with a commitment is part of the implementation of the agreement, and not of its negotiation. Failure to comply is a major issue that raises questions about the trust and relationship between the counterparts and is the flip side to how compliance strengthens the relationship.

For now, this section 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. Clarifying the terms of the transaction;
B. Creating a conducive environment for the transaction; and
C. Addressing the human elements of the transaction.

APPLICATION OF TOOLS AND METHODS

The purpose of this segment is to provide step-by-step guidance in preparing for the transactional stage.

A. Clarifying the terms of the transaction

As mentioned in the conceptual introduction, the quality of a negotiated agreement resides primarily in the clarity of the commitments and its durability in changing circumstances. It provides for a clear set of tasks 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 a 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 conditional and sequential mechanics of these tasks (i.e., the order in which these tasks should proceed and the conditional nature of a particular task);

4. They **set 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.

SITUATION 1

<table>
<tr><th>CRITERIA</th><th colspan="2">PROPER TERMS</th></tr>
<tr><td>1. Express clearly parties' commitments</td><td colspan="2">FWB's proposed terms to include:

- The number of trucks
- The description of the cargo
- The schedule of movement
- The predefined routes
- The profiles/names of drivers
- Detailing the modalities of distribution
- Defining the target population

In exchange for:

Armed militia and military's commitment to:

- Stipulate route and time of access on a map of the territory under their control
- Guarantee the safe passage and security of staff
- Specify modalities of crossing checkpoints manned by the militia
- Refrain from interference
- Detail responsible parties in the field (names and phone numbers)</td></tr>
<tr><td rowspan="2">2. Define the roles and tasks of the parties and their connection as required by the circumstances</td><td colspan="2">Counterparts orchestrate their interactions based on the circumstances</td></tr>
<tr><td>FWB will:

1. Send a notification on number of trucks, cargo, dates, and route on Day 1

3. FWB will confirm day and time of the convoy with the local commander on T – 1 day

5. 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</td><td>Military/militia will:

2. Receive notification, share information in the field, and provide authorization within four days

4. The local commander will confirm within 3 hours that convoy can proceed

6. The local commander informs checkpoints</td></tr>
</table>

CRITERIA	PROPER TERMS	
3. Express clearly parties' commitments	**7.** Convoy crosses check-points and proceeds to deliver assistance **9.** Convoy leaves the camp through the same route or as otherwise agreed with the local commander	**8.** The local commander is present at the delivery site and observes without interference
4. Set a process to handle potential divergence	**The parties agree:** - On a direct communication with people of authority in case of divergence during the operation - On a practical process of resolution under the circum-stances to ensure a) the safety of FWB staff, and b) the implementation of the operation - In case of continued divergence, to suspend the operation without further escalation or declaration and convene a meeting of the parties to discuss facts and possible solutions	
5. Recognize the power relationship in the field and the relevant degree of responsibility	**Military and armed militia agree:** - To guarantee the safety and security of the operation throughout the period - 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 - To take full responsibility in case of a security incident involving the militia or other parties **FWB agrees:** - To ensure the strict neutral and impartial character of its delivery of assistance - To ensure that its staff and contracted drivers will not engage in activities unrelated to the transport and distribution of humanitarian aid	

SITUATION 1

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 under the control of 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 be the proposed terms of the transaction?

These criteria are by no means objective standards for the success of a transaction. They are rather various measures of quality against which humanitarian negotiators can compare their proposed terms of exchange as they prepare for a transaction in order to enhance the resilience of the final agreement.

For experienced negotiators the examples mentioned above may appear simplistic or too formalistic. The circumstances dictate the need for clarity. 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.

B. Creating a conducive environment for a transaction

The transactional stage is a critical moment of a negotiation process, given the investment of the parties in assessing the situation and interest of the parties in leveraging influence. It is when and where parties will agree on the proposed terms of the exchange, but more importantly it is the phase for consideration of the costs of the transaction. As mentioned above, each transaction entails respective cost and benefit. Since most of the benefits of a humanitarian operation concern the affected population that is not part of the negotiation, the issue of the negotiation is more about the distribution of costs than the allocation of benefits. Accepting the costs of a transaction always comes at a risk for the negotiator and for the organization he/she represents. To mitigate the costs of the transaction, parties will try to underline, rephrase, or obscure some aspects of the transaction so as to minimize the burden of the agreement on their side. Consequently, the degree of control that a humanitarian organization will agree to concede to the counterpart is often left vague (e.g., crossing a checkpoint may involve checking the cargo despite an immunity from inspection; selection of local staff may imply some vetting by internal security forces; providing rations of food to families may imply some redistribution or diversion of food to members of the militia when the organization leaves the camp, etc.). Equally critical, the degree of access granted to the humanitarian organization may not stipulate the liberty of collecting data on abuse against the population, or of negotiating as well with so-called "terrorist groups." In all cases, 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 being too explicit or not explicit enough on some of the terms.

This "collaboration" in the drafting of the terms of an agreement very much depends on the relationship established between the parties. In such case, one may

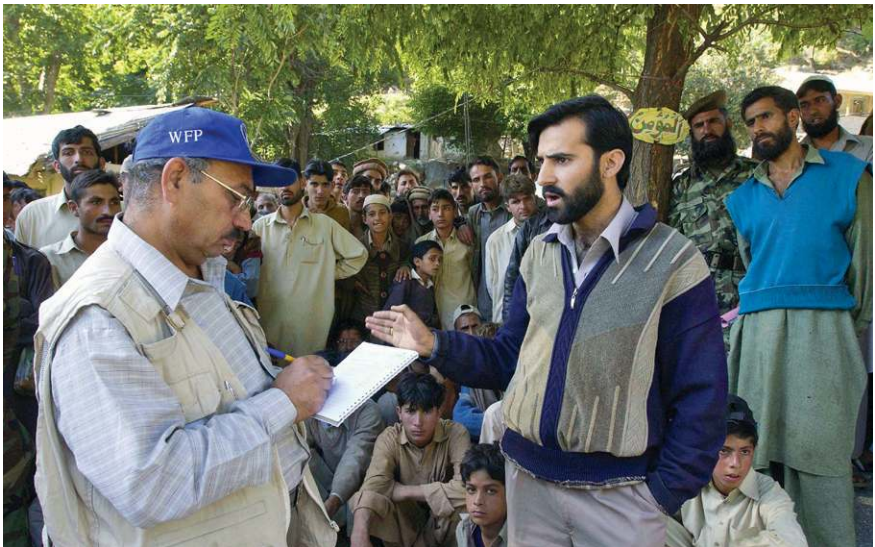
want to create a conducive environment for the discussion by:

- Preparing for the meeting(s) carefully, discussing and at times agreeing in advance on potential points of tension, and building as much as possible on the points of convergence and previous positive experiences.

- Understanding the power structure of the counterparts and their negotiators, the potential personal and institutional liabilities they may carry, and assessing the risks entailed around the various terms of the proposed exchanges (see above).

- Focusing primarily on the people involved (at the desk, in the room, outside the room) and assessing their relationship in terms of authority and influence, and identifying those who are diverting attention from the ones who are deciders.

- Approaching the transaction as a moment of dialogue rather than a moment of resolution. Since the decision of the counterpart may well be made at a later stage, prepare and set an agenda for the meeting supporting a dialogue so as to explore options rather than reach an agreement. The agenda should identify the issues, propose a



path for the discussion, and set a clear process for moving forward into implementation.

- Establishing trust with the counterparts. The less improvised and more predictable the transactional meeting will be, the more trust it will generate. Determine the points of flexibility and the red lines and see if you can build an argument clarifying both to serve as a framework to discuss the terms of the agreement.

- Listening carefully to the counterparts and taking their points into account 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 by 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.

- Seeking to create shared value before trying to claim benefits from the proposed terms (i.e., 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 Objectives (CSOs) 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").

- 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 access by air, etc.).

- Being transparent about your red lines when some of these options are unlikely to be agreed on so as to try to avoid raising the wrong expectations. Do not hesitate to postpone a discussion on a difficult term to focus on agreeable issues and revisit these points later if they are still relevant.

- 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.

- 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 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 you? 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?

Proposed terms of the agreement	– What are the proposed terms of our operation? – What are the movable pieces/options 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?
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 this 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?

C. Addressing the human elements of the transaction

The transaction stage of a negotiation is also an environment where pressure is being applied on the parties and frustration is often expressed. The human dimensions of the transactional stage cannot be overstated, yet they are poor indicators of a successful or failed negotiation. In other words, the personal dimensions of the meeting and the attitude of the negotiators can easily advance or derail a meeting, but if managed properly they remain secondary to the interest of the parties to reach an agreement. Such risk is usually managed upstream as continued positive relationships are central in frontline negotiations and their implementation.

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 point is to be able 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 part of the skills of great negotiators. While a negotiator asserting a position, expressing a sense of frustration, or even being outraged can, in some circumstances, be beneficial if it helps to carry a message, it can be done only if one 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 communi-

cate a position using rational reasoning as a vehicle, from aggressive behavior, which aims to impose a position by leveraging an emotion. Both need to be read in their cultural context, as the perception of the receiver is determinant.

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

SITUATION 2

Sexual exploitation of unaccompanied minors in a transit camp for migrants

"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 the 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 abuses and trafficking that we reported to your attention a few weeks ago. This situation is way below applicable standards and you need to do something 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."

SITUATION 3

Same context as above

"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 raped by older men from within the camp. Your unwillingness to address this issue by creating 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 incoming 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."

Aggressiveness may undermine your position:

- 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 is essentially disrespectful and is likely to trigger escalation

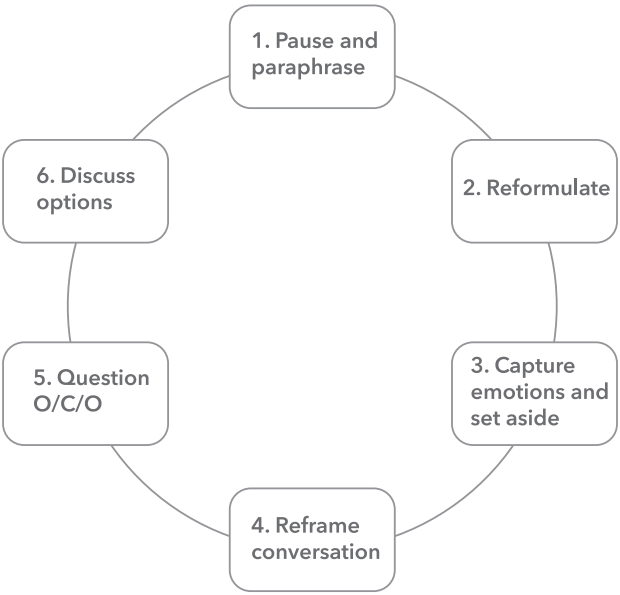
Both statements are describing the same situation. While the first one attempts to carry a strong but rational message, the second one attempts to leverage anger, guilt, and fear more than reasoning with the counterpart. Depending on the power relationship between the parties to the negotiation, an aggressive stand on the side of 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 on the dominant side is an expression of power and frustration in the relationship. If it does not trigger an escalation, it will necessarily 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.

On de-escalation

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.

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



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

SITUATION 4

Meeting on allegations of ill treatment of detainees with the Military Commander of a detention camp

Surprised by some of the allegations of ill treatment presented by the representatives of the International Monitoring Committee, 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 human, they have decapitated women and children in the villages"
- "How can one 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"

STEP 1

Make a pause and paraphrase

It is important to recapture some control over the timing of the conversation. Escalation is built around an expectation of increasing tension over time. It projects emotion as a tool of control over the discussion through time, expecting a given escalatory response. By stopping to pause (up to 7 seconds), the weaker/aggressed party can easily disarm an escalation process as a method and start to address the emotion.

Aggressiveness is made of emotion. Such 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, one 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 of not saying, "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 uses

the word "understand," he/she may fail to de-escalate the conversation and instead provoke a higher level of aggressiveness to make his/her side actually "feel" the emotion. One needs to stay quite neutral and avoid getting involved in the emotional statement of the sender. By comparison, if the emotion would be positive and in line with the position of the receiver, for example, if the Camp Commander would have 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 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. Am I right?"

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 the agreements for the emotions. The objective is only 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 you open an avenue to a new dialogue.

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.

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 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.

In all cases, one should avoid apologizing for his/her position or earlier positions 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.

PRACTICE AND SIMULATIONS

This segment offers the opportunity to readers to exercise their skills in preparing and conducting a transactional meeting.

One example from negotiation practice is presented and the templates are set for readers to implement the tools elaborated above.

CASE 1

Evacuation of wounded civilians from a war zone in a remote district under the control of a non-state armed group

You lead a convoy of Health for All (HfA), an international health NGO, with the mission of evacuating severely wounded civilians from a remote district where there has been increased armed violence over recent weeks between government troops and armed groups. The access of the convoy has been negotiated through separate channels with government and armed group representatives and you were given the green light to proceed.

Two days into the journey, you are stopped at an informal checkpoint in the jungle. Three armed militants aged around 14–16 years old are blocking passage of the convoy. They appear very nervous and are probably on some drugs. After some preliminary exchanges, you are brought in front of a group of militants nearby, slightly older and quite aggressive, who seem to be in a greater position of authority.

The older militants declare that they know nothing about your convoy and seem unaware of the situation of the wounded civilians. They claim that they need the medical material in the convoy and intend to confiscate the material.

They are suspicious about your presence, as with the presence of any foreigners, and claim that they have information that HfA has been using military drones in some displaced persons camps. The government military has been tracking the movement of the armed groups through the use of drones in the past. HfA has indeed been using drones to film IDP camps as part of a geographic survey of camps.

The militants announce that the regional commander of the armed group will be visiting their camp over the coming day or so and will want to discuss the situation. For now, the car, trucks, and all its content are confiscated, and you are kept in one hut in the camp. You have no means to communicate with your colleagues in the capital. You are concerned that if information circulates about your abduction, the army may want to attack the informal camp, threatening your survival.

You will be meeting with the regional commander tomorrow. What are your proposed terms of the agreement?

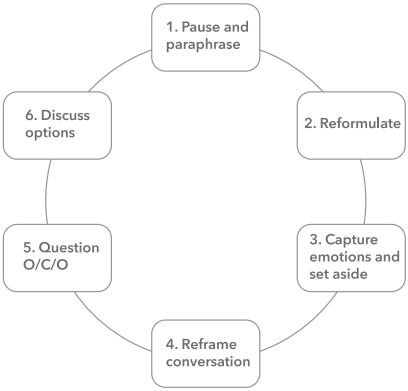
- Are these terms clearly defined in your mind in a way and a language that both sides can understand and relate to?
- Do they define plainly the expected role and tasks of the parties?
- Are they reciprocal in nature?
- Is there a process to handle potential divergence of views on the implementation of the agreement? and,
- Do they recognize the intrinsic power relationship between the parties under the circumstances?

Using the following checklist, how would you envisage the meeting?

CHECKLIST TO PREPARE, CONDUCT, AND DEBRIEF A TRANSACTION MEETING	
Preparing 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 you? 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?
Proposed terms of the agreement	– What are the proposed terms of our operation? – What are the movable pieces/options 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?
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 ?
Creating shared value	– Can we describe our institutional objectives as common shared objectives ? – Are we able to insert this 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 ?
Next steps	– Are we able to present clear next steps to move forward ? – What are the agreed results of the meeting ?

It is expected that the counterpart will be aggressive, as they have been so far. You should have a plan ready to de-escalate the tension using the steps described above. Can you prepare a scenario using the template presented above ?



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

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the particular tools and facilitate individual and collective reflections on the transactional stage of a negotiation.

Points for professional deliberations

1. Many transactional meetings are improvised. Humanitarian negotiators often approach such meetings with some casualness, open to find out what the other side has to say. Is there a merit to improvising in transactional meetings? Is this casualness hiding how unprepared we are, or should we not look too prepared?
2. How can we avoid minimizing the obstacles and the operational ambiguities of negotiated agreement? What is the value of an explicit agreement on all essential points compared to an agreement that manages the sensitivities of the parties?
3. How should setting the agenda of a transactional meeting be carried out? Who should propose the terms of the agreement first?
4. How can we use some of the red lines from the other sides as a point of departure for agreements?
5. What are some of the cultural dimensions of assertiveness and aggressiveness?
6. Is there is a space for aggressiveness in a humanitarian negotiation? What about assertiveness?
7. Who can de-escalate a tension, and how? What tactics can be used?

2 | The negotiator’s support team

Role and tasks of the negotiator's support team

Introduction

OBJECTIVE OF THIS SECTION

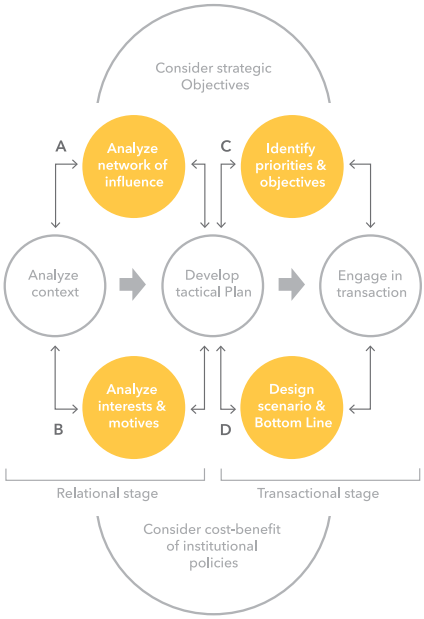
The objective of this section is to provide a framework for the negotiating team to assist and support frontline negotiators in the development of their negotiation strategies and tactics.

Frontline negotiation is understood across the humanitarian community as a relational endeavor involving the humanitarian negotiator and his/her counterpart(s) in a search for a common understanding 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 ascertain their shared interests to drive the negotiation process forward.

One side effect of this personalization of the relationship is that decisions on the orientation of the negotiation process are often made primarily by the negotiators involved, while the scope of interests and the stakes at play are usually much larger and far-reaching than the ones envisaged by the individuals in their relationships. This larger picture may involve at times the life 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 will remain central elements of their success, these efforts should be framed by the values of the organizations and the required supervision in order to ensure the proper support and endorsement by the organization. These measures, 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 deliberation with the members of the negotiation team and the hierarchy. Such

Figure 1 : Role and tasks of the support team in a negotiation process



deliberation aims to support the creation of a critical space to define and regularly review the objectives of the negotiation process and inform the design of the tactical plan (see Figure 1).

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

a) Analyze the interests and motives of the counterpart on the object of the negotiation;

b) Assess the network of actors who may influence the position of the counterpart(s);

c) Identify specific priorities and objectives of the negotiation process; and,

d) Design scenarios, bottom lines, and red lines to frame the negotiation process.

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

Analysis of interests and motives

CONCEPTUAL DESCRIPTION

The purpose of this module is to analyze the underlining tactical interests and motives of the counterpart(s) 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.

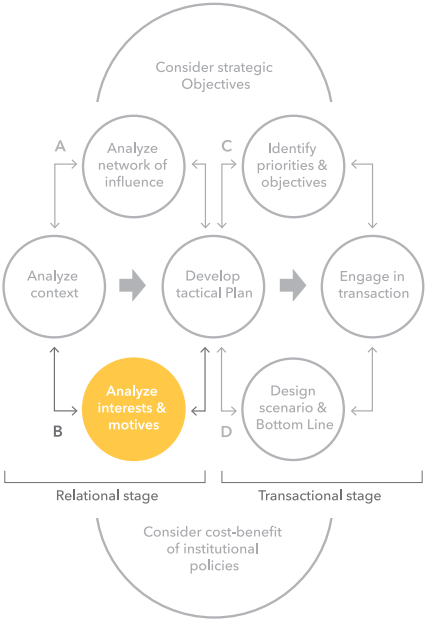


Figure 1 : The interests and motives analysis inform both the context analysis and the development of the tactical plan

The analysis of the interests and motives of the counterpart(s) will inform the development of the position of the humanitarian organization and facilitate the design of the tactical plan of its negotiation team. It 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 – mediation skills, consensus-building skills, or specific technical abilities (see Section **Green**, Tactical Plan & Typology of a negotiation).

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, avoiding focusing too early on the points of divergence to be negotiated and trying to elucidate the perception of the counterpart of a particular situation or issue and the relevant tactical interests and inner motives, especially in terms of loss, fear and grievances of the counterpart 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 logical articulations (e.g. a priori/ a fortiori/ a contrario), recurring professional reasonings (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 is his/her motives)? Are there identity or power issues involved? What are

the values or norms at stake? What emotions are raised by such issues, if any (e.g., hope, anger, fear, frustration, etc.)?

The starting position of a counterpart is generally based on a logical reasoning that reflects the tactical interests of the counterpart, as well as a set of intrinsic values and norms that are at the core of its 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 Ministry of Health communicated its starting position that HfA needs to obtain a license from the Ministry of Health to operate its 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 its 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 objective of 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 as 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 **Green** on 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, tactical interests, and motives of the counterpart

With the view of systematizing the analysis of the position of counterparts, their tactical interests or motives, one may use a widely accepted tool referred to as the "Iceberg" (see Graph 1).

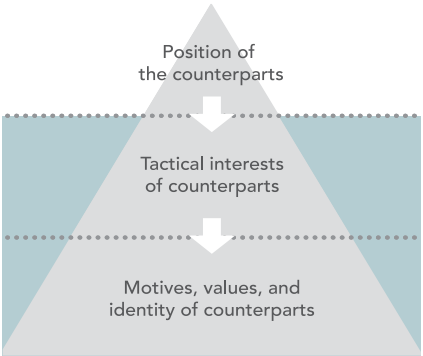


Figure 1 : Analyzing the position of counterparts

The first step this analysis is to **ascertain or take note of the position** of the counterpart as a starting point of the analysis.
– In normal circumstances, the analysis begins with the recognition of the starting position of the counterparts 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. The agent transmitting the position may also not carry much authority, i.e. having only a vague 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. A minimum of clarity and authority must be recognized before moving forward with the analysis (see the three-pronged test in the next module).

A second step is to **assess the reasoning of the counterpart** behind the position identified in the first step:

– The tactical interests of the counterparts explain the reasoning behind the position. Tactical interests are seldom communicated by these counterparts. A third party, local staff, or acquaintance may elucidate the reasoning of the counterparts as part of an informal conversation. Knowledge about the reasoning of the counterparts is generally a strength, as it may be helped build a new consensus on shared rational grounds. Depending on the situation, discussions on the tactical interests of the counterparts best take place in informal quarters in the service of finding a solution to the divergent, competing logical rationales, rather than trying to defeat the other side's argument. Many humanitarian negotiations take place informally, as their 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.

A third step is to **deduct the inner motives and values** directing and informing the reasoning of the counterpart:

– The inner motives and values of counterparts are definitely more sensitive. 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 counterparts in a mantle of strict values and norms that often impose significant limitations on the ability of the other side to negotiate and find a solution. By being aware of the 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 remains 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 on 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 deducted 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 deeper the understanding of the observer of the iceberg and its dynamic in the fluid environment, the more able the observer will be to predict the movement of the iceberg.

The same goes for the analysis of the position of counterparts in a negotiation process. The more complex the rationale and deeper the motives of counterparts are, the more complicated the interpretation will become and the harder it will be to predict the evolution of the negotiation, requiring the contribution of people and experts who know about the rationale and values of the counterparts 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 counterparts and integrate some level of uncer-

Example 1

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 from leaving their residence in District A for almost a week by tribesmen following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows plans of HfA 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 remains open. Families of patient 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.

tainty in terms of their interests and motives hidden from view. Ignoring this analysis can come at great costs to the negotiation and parties to the negotiation. To illustrate such analysis, one may consider an example drawn from recent practice.

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 interests, and motives of the tribal leaders and the guards so as to prepare their negotiation tactics properly. In this case, questions to be examined include:

QUESTIONS	POTENTIAL ISSUES
WHAT do the tribal leaders and the guards want? What are their explicit/implicit positions?	**POSITIONS** • Explicit: Tribal leaders insist on keeping the hospital fully operational. • Explicit: The guards want to maintain their employment. • Explicit: Families of wounded and deceased guards want to be properly compensated. • Implicit: Retained staff will be released only when guarantees on the above are provided. • Implicit: Meanwhile, emergency needs should be addressed by HfA.
HOW did the tribal leaders get to those positions? **HOW** are the tribal leaders planning to proceed?	**RATIONALE** • The retention of HfA staff has been triggered by the unexpected announcement of the closing of the HfA hospital. • 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. • Both want their voice to be heard loud and clear in the ears of those who make such decisions. Detaining staff is the best way to get heard.

WHY do the tribal leaders take such positions? What are their inner motives and values?	**VALUES AND MOTIVES** There are several values and motives at play in this context: • 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. • The tribal leaders further see this dispute as an opportunity to gain/improve their reputation and that of their tribe within the community. • 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. • 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.

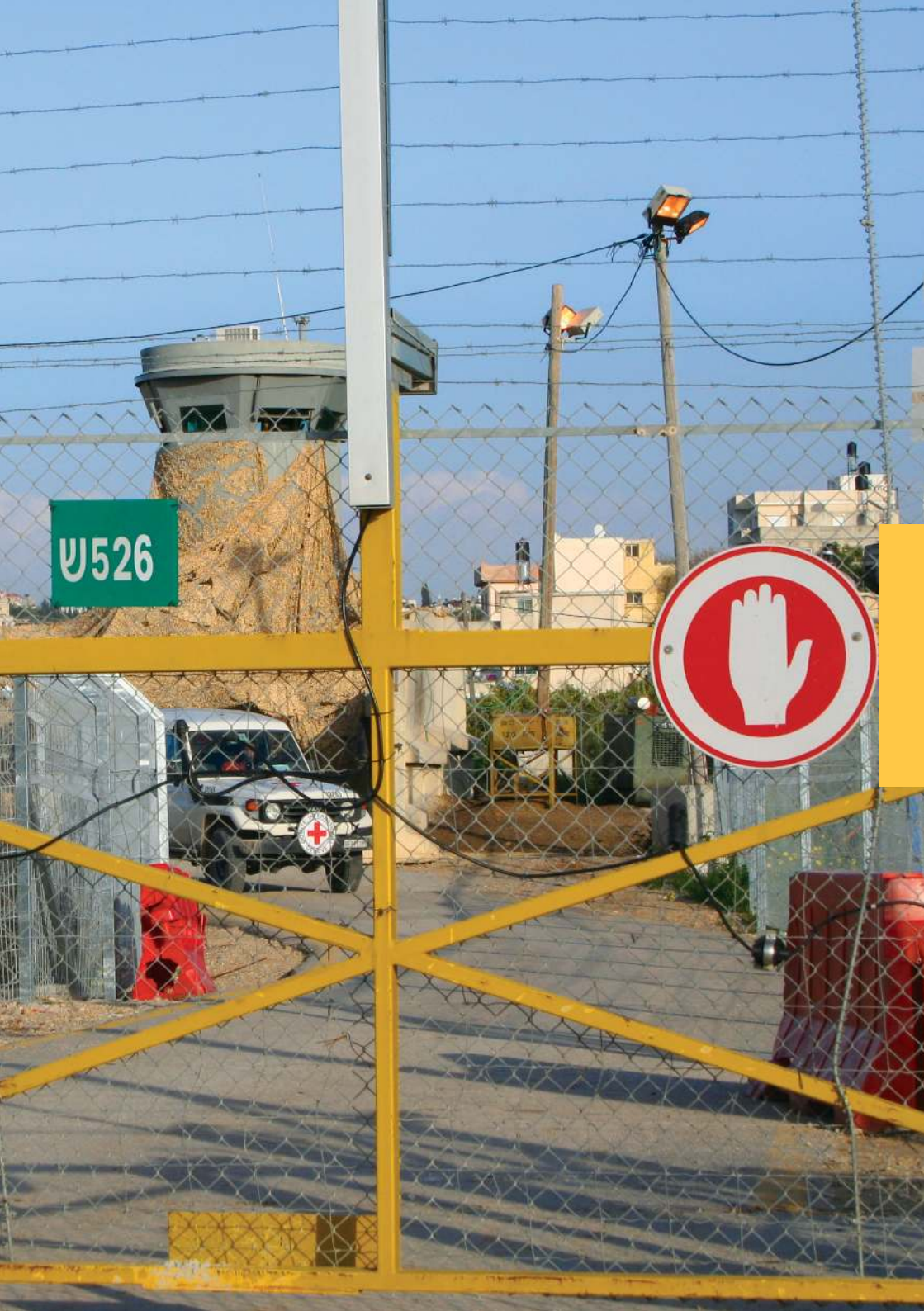
This analysis will help to identify points of divergence and convergence as one develops the tactical plan of the negotiation. It will also inform the design of options and sequencing of issues to be addressed in this specific situation. As in every negotiation, negotiators should work on issues in three tiers:

Tier 1: Issues easily agreeable (i.e., at relatively low cost and high benefit for both the humanitarian organization and the counterparts) that can serve to build a relationship with the counterparts and set a positive tone to the negotiation by addressing some of the inner motives;

Tier 2: Issues on which an agreement comes at some cost for the counterparts and/or the humanitarian organization, and some benefits for both. These agreements can be used to establish the basis of a rational and fair distribution of cost/benefit of the agreement;

Tier 3: Issues that are more complex to address and harder to solve because they come at a high cost for the humanitarian organization and possibly for the counterparts. These issues are often at the core of the conflict and frequently are not actually negotiable because they fall below the "red line." Such issues should be kept present but put aside at first as to avoid the confrontation of the positions that may highjack the negotiation process and reinforce the negative perception of the counterparts.

The scenario around the three tiers and the design of the red lines will be reviewed in the module on the Design of Scenarios and Bottom Line of the end of this Section.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APPLICATION OF TOOLS AND METHODS

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

There are three steps in building an "iceberg" analyzing the position of the counterpart.

STEP 1

Gather information about the position of the counterparts and evaluate its clarity and authority

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

In frontline negotiations, the designation of the relevant counterparts and the authority of the communication are often the subject of interpretation. The lack of clarity is of the starting position is often a given due to the unstable and evolving environment of the negotiation and of the conflict. 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?

More authoritative the counterpart or his/her representative is (e.g., minister, military commander, leader of an armed group, etc.), more likely that the communication represents the position of this other side. More ambivalent the representation is (e.g., informal communication, undocumented position, not acknowledged by the counterpart) less authoritative the communication becomes. Self-granted attributions of an unknown agent within the community is most likely a sign of limited authority.

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

A clear position for a lay person is most likely to be authoritative (e.g., a distinct proposal, Yes/No answer, or a clear counterproposal) as it does not require much explanation and is free from ambiguities. Circumvoluted 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. 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 does not come via social media but in a written format such a Note Verbale. The communication of the position of a military commander is rarely late or sent to the wrong addressee. Likewise, a communication by the spiritual leader in a negotiation process is unlikely to be delivered by email. Likewise, it will be expected that the humanitarian negotiator will be using the same form and timing in his/her communication.

This three-pronged test is valid for verbal or non-verbal communication. It may help a discussion within the negotiation team on the relevance and authority of a position received from the counterparts. The interpretation of such communication may have severe consequences if it is left ambiguous.

SITUATION 1

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 towards 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.

As far as the position of the military at the checkpoint:

- A first communication comes unexpectedly from a young uniformed corporal, coming with a coffee jug and 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 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 takes place by radio, in front of the leader of the convoy having tea with the officer in charge detailing plans for the safe passage of the convoy.

If one is to rely on this communication to ensure the security of the convoy crossing the no man's land, the clearer and more authoritative the communication of the counterpart, the safer the crossing will be.

The clarity and relevance of such communication very much depends on the culture of the context and the circumstances of the negotiation. Cross-line negotiation requires a very high degree of clarity and authority. Yet, 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/read such communication. They should seek clarification whenever needed.

STEP 2

Identify the rationale of the counterparts behind the position

The second step is to seek an explanation on the tactical interests of the counterparts 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 counterparts.

For example :

SITUATION 2

GOVERNMENT A INTENDS TO MAINTAIN A POLICY OF BOMBING MEDICAL PREMISES AS THEY PROVIDE MEDICATION SUPPORT TO ENEMY COMBATANTS

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

The Military Command of Government A opposes such clinic. He explains to HfA representatives that he considers that wounded enemy combatants are targetable as any other military assets since they are most likely to return to combat once they have been treated. The military has opted therefore to target medical premises where these combatants are **located, or** could be treated in the future without advanced notice, 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 for those involved in the context. Wounded enemy combatants represent a fortiori a military threat as 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 some contemporary military circles 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 of medical premises, even if the humanitarian negotiators are to differ from such 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 counterparts. Such logic is likely to trigger a counterargument as part of the negotiation tactic to sway the consensus towards an alternative logic that would value the life and dignity of wounded enemy combatants in the eyes of the government, and the protection of medical premises.

STEP 3

Elucidate the values and motives underpinning the position

The third step focuses on the value, identity and cultural norms at play in the position of the counterparts on which counterparts often have little control. These values are inherent to the context and represent an ideological framework in which counterparts operate. 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.

SITUATION 3

GOVERNMENT A IMPLEMENTING RELIGIOUS NORMS CONTRADICTING IHL

The International Monitoring Committee, an international NGO monitoring conditions of detention, is raising concerns on 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 the government A to implement religious norms in lieu of international treaty-based norms is not a derivative of a legal reasoning but as 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 technical modalities or as recognized professional penitentiary standards. For both sides to this negotiation, the issue at stake is rather 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 consider the tactic of the negotiation for the protection of detainees. In particular, one may consider building a dialogue on a value-based argument enhancing the protection of PoWs within the religious order of the detaining State. A negotiation at the value 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 value sets of the humanitarian organization, it will be a significant help in the design of the tactics and discussion with the counterparts. 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 counterparts.

PRACTICE AND SIMULATIONS

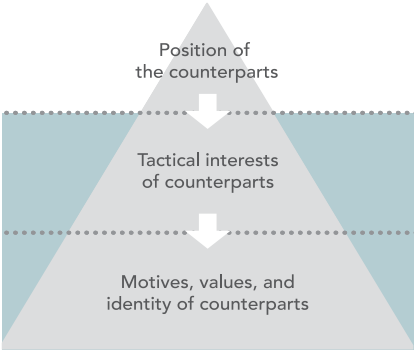
This segment offers the opportunity to the readers to exercise their analytical skills.

Three short examples are provided to be analyzed by the readers.

CASE 1

PROVIDING LITERACY MATERIAL FOR CHILDREN ENROLLED IN A MILITARY ACADEMY

At a regular meeting on access to areas affected by armed violence and conflict, the military commander of the District has requested the support of the National Children's Fund (NCF), a national NGO, to acquire educational literacy material to teach unaccompanied children enrolled in a local military academy. Country A is at war with rebel groups and unaccompanied children aged 12-16 years old graduating from this academy are allegedly sent to the rebel areas as scouts observing and documenting the military movements of the rebels. According to local teachers, the literacy program is directed towards the capability of students to document and transmit the positions of rebel troops.



Step **1**

Step **2**

Step **3**

STEP **1**

WHAT IS THE DEMAND OF THE MILITARY COMMANDER?

a) What is the authority of the agent?

b) What is the clarity of the demand?

c) What is the context of the communication?

STEP **2**

WHAT IS THE REASONING BEHIND THE POSITION?

a) What is/are the logical argument(s)?

b) What are the premises of this reasoning?

c) What is the logical connection/conclusion?

STEP 3

WHAT ARE THE VALUES AND NORMS BEHIND THE POSITION?

a) What are the moral, cultural or religious values?

b) What is the level of sensitivity for the counterparts?

c) What is the level of risk for the agency involved?

ADDITIONAL QUESTIONS:

1. Will this negotiation most likely be technical, professional or political in nature?

2. Accordingly, which level of analysis will need to be developed and refined in a dialogue with the military commander?

3. What type of skills will need to be mobilized?

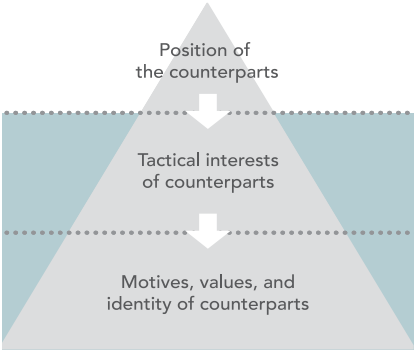
CASE 2

ASSESSING THE NUMBER AND STATUS OF IDPS RECEIVING FWB FOOD RATIONS

Representatives of Food without Borders (FWB), an international NGO, are visiting a remote IDP camp of Country A under the control of an armed group to assess the number of beneficiaries of its food distribution program in the region. The data shows over 18,500 persons living in the camp receive regular FWB food rations, equally divided between genders.

While visiting the IDP camp, FWB representatives observed the total absence of any males aged between 12 years and 60 years old. Government military has argued that the males are forcibly recruited by listed terrorist groups. It complained that parts of the FWB food rations are diverted by the armed group to feed its combatants. FWB has mandated its representatives to step up the monitoring of the distribution of food rations by requesting the presence of FWB representatives during the distribution of food by the local contractor.

The camp does not seem to have any clear leadership. The pastor of the parish and the teacher of the school are too busy to meet with FWB representatives. An elderly man, nicknamed "The Mayor," meets with them in the community room of the IDP camp. He disagrees with the proposal for greater FWB monitoring, arguing that the distribution of food rations is an internal affair of the community. It takes place among women from each family and FWB must respect local customs. He otherwise explained that all the males of the community are currently harvesting crops in the surrounding fields.



Step **1**

Step **2**

Step **3**

STEP **1**

WHAT IS THE POSITION OF THE CAMP LEADERSHIP?

a) What is the authority of the representative?

b) What is the clarity of the position?

c) What is the context of the communication?

STEP **2**

WHAT IS THE REASONING BEHIND THE POSITION?

a) What is/are the logical argument(s)?

b) What are the premises of this reasoning ?

c) What is the logical connection/conclusion ?

STEP 3

WHAT ARE THE VALUES AND NORMS BEHIND THE POSITION ?

a) What are the moral, cultural or religious values ?

b) What is the level of sensitivity for the counterparts ?

c) What is the level of risk for the agency involved ?

ADDITIONAL QUESTIONS :

1. Will this negotiation most likely be technical, professional or political in nature ?

2. Accordingly, which level of analysis will need to be developed and refined in a dialogue with the Mayor?

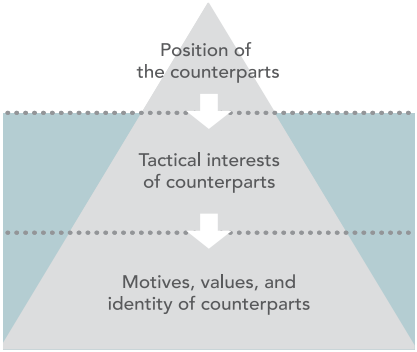
3. What type of skills will need to be mobilized?

CASE 3

IMC MEETS WITH THE VICE-PRESIDENT OF COUNTRY A TO DISCUSS MODALITIES OF PRISON VISITS

Representatives of the International Monitoring Committee (IMC), an international NGO mandated to monitor conditions of detention, are meeting with the Vice-President of Country A to discuss the modalities of IMC visits to prisons in Country A. The meeting takes place in the Presidium Palace, a heavily fortified government building. After walking for more than 45 minutes in long and dark alleys, the IMC representatives are invited to sit at a table in the middle of a large room. On one side of the table, the Vice-President is joined by the Deputy-Minister of Foreign Affairs, and a translator. On the other, the two representatives of IMC are invited to sit.

Without much introduction, the Vice-President launches a monologue of about 90 minutes on the economic and social achievements of Country A under the doctrine of the ruling party. At the end of the speech, the Vice-President concludes by welcoming the IMC representatives to Country A and seek their support in the development of the prison system. A group of photographers enters the room and takes a series of pictures of the two sides meeting. The meeting is adjourned without much input from the representatives of IMC.



Step **1**

Step **2**

Step **3**

STEP **1**

WHAT IS THE POSITION OF THE GOVERNMENT?

a) What is the authority of the representative?

b) What is the clarity of the position?

c) What is the context of the communication?

STEP **2**

WHAT IS THE REASONING BEHIND THE POSITION?

a) What is/are the logical argument(s)?

b) What are the premises of this reasoning?

c) What is the logical connection/conclusion?

STEP 3

WHAT ARE THE VALUES AND NORMS BEHIND THE POSITION?

a) What are the moral, cultural or religious values?

b) What is the level of sensitivity for the counterparts?

c) What is the level of risk for the agency involved?

ADDITIONAL QUESTIONS:

1. Will this negotiation most likely be technical, professional or political in nature?

2. Accordingly, which level of analysis will need to be developed and refined in a dialogue with the government?

3. What type of skills will need to be mobilized?

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the particular tool and facilitate an individual and collective reflections on the analysis of contexts in a frontline negotiation.

Points for professional deliberations

1. How can a negotiator ensure a greater clarity and authority of the position of a counterpart? Are there tools and methods to improve the quality of the dialogue? What if the interlocutor remains difficult?
2. How should a negotiator approach a technical position related to a specific modality of an operation (e.g., assessing the number of beneficiaries)? Should the humanitarian principles be used to motivate the access of the humanitarian organization on this modality? What are the cost/benefit of such principled response? Should the negotiator try to reason with the counterpart to explain the logic of the agency's modality, or simply stick to defining technical modalities based on his/her expertise?
3. How should a negotiator address the logic of a divergent position in a frontline negotiation? Should he/she object on principled grounds or seek an alternative logic (e.g., ensuring the absence of wounded combatants to prevent the bombing of a hospital)? Does seeking such logic muddy the water in terms of compliance with humanitarian value and norms?
4. How should a negotiator respond to a value or normative challenge by the counterparts? Should one escalate or avoid the tension? How should one go about doing it?
5. Ultimately, are there rationales we should not even try to understand (e.g., from a genocidaire)? How does this affect our ability to negotiate?

Network mapping and leveraging influence among stakeholders

CONCEPTUAL DESCRIPTION

The purpose of this module is to examine the relationship between the humanitarian organization and the counterparts within the social and political context of the negotiation for the purpose of exploring ways to mobilize support among influential stakeholders and create a conducive environment for the counterpart to accede to the demands and expectations of the humanitarian negotiator.

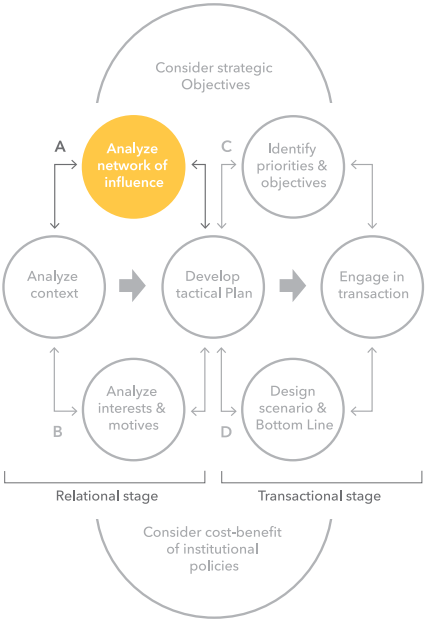


Figure 1 : Mapping stakeholders : Opening avenues to leverage influence

In the previous module, we have reviewed the position, tactical interests, and motives of counterparts as a product of their internal reflections. Interest and motive analyses assume a degree of autonomy of counterparts in determining their position. Humanitarian negotiators benefit from their engagement with counterparts who have a definite authority over the matter and who can agree on the terms of the humanitarian operation, e.g., providing access to a population in need. Yet, one has to acknowledge that positions in a negotiation are also determined by the environment in which the parties evolve as much as their reasoning and value judgments over the issues on the table. It is therefore important to integrate the analysis of the role and perspectives of stakeholders in a negotiation process as a significant source of leverage (positive or negative) on the counterparts' position.

This mapping tool comprises the elaboration of tactical steps to mobilize or mitigate the role of external influencers and facilitate the search for a satisfactory agreement for both parties. It is expected that the mapping exercise is conducted in collaboration with the support team, as it requires discussing the relative positioning of actors on a political map, best achieved through a critical discussion among the members of the negotiation team. This exercise is of particular importance with counterparts that play a key political role in their community (e.g., high-level government officials, tribal leaders, military commanders, etc.) who may, in such case, gain considerable authority and legitimacy from humanitarian negotiation. Political actors rely extensively on other stakeholders' perception of their authority. 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 decision-making process of the counterparts on a particular issue and situate the position and role of the humanitarian organization in this context.

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. They take place 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 of several connections of influence over the issue at stake (e.g., militia leaders, chief of police, journalists, religious leaders, traders, other interest groups, etc.)

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 by themselves. Empathy towards victims, if it exists, and the desire to comply with moral, legal or professional norms are most of the time insufficient to generate a favorable response to the demands of humanitarian organizations. If negotiations of access are warranted, it is because the situation, location and features of affected population and the level and type of aid to be received are of relevance to the parties to the conflict. In this context, humanitarian needs should be understood as the product of state or group policies which, in turn, are the product of competing political forces vying for greater influence.

Negotiated access to affected populations is therefore the result of the ability and leadership of counterparts balancing the interests of stakeholders toward such access, including humanitarian organizations to the extent they were able to leverage influence with the political environment of the counterpart. In politically tense situations, humanitarian negotiators must focus not only on the cost/benefit analysis of the counterparts in terms of agreeing to the demand of the humanitarian organization, but on the cost/benefit in terms of the power relationships of the counterparts within their constituency.

3. While the humanitarian principle of neutrality requires organizations to refrain from taking a position on an issue at conflict, these organizations often play a significant role on the political map of counterparts in terms of bringing visibility, resources, and status.

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., con-

trol of a party over a territory, prominence of a particular leader, ideology of a party, etc.) and the political ramifications of a purely 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 character of their humanitarian efforts at the negotiation table. This confusion is compounded with the economic and social impact that their programs may have on the political landscape of the conflict. In prolonged conflicts, the politicization of aid by the parties, regional governments, and donors may further contribute to the confusion on the neutral vs. political character of the humanitarian issue at the negotiation table.

The risk of confusion is therefore real to the point that one cannot remain oblivious to the political footprint a humanitarian organization may have on the power relationships among the parties and their stakeholders. It is imperative that humanitarian negotiators take into account the political implications of their relationships and understand as much as possible the potential cost/benefit of such relationships on the counterparts and stakeholders. Consequently, humanitarian negotiators should engage proactively in a dialogue with all the relevant stakeholders on how to leverage and mitigate this impact, so they can be perceived as neutral through their diligent actions rather than some dogmatic presuppositions.

To support such efforts, this module proposes a straightforward mapping tool in four steps:

1) The first step will involve 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 will assign the main counterpart the position in the center of the map and place all the relevant stakeholders in the respective quadrants across the map;

3) The third step will focus on tactical schemes to guide the engagement of humanitarian negotiators with stakeholders to leverage their influence; and,

4) The fourth and final step will offer a tool to prioritize mobilization efforts towards conducive connections among stakeholders that may support a positive outcome of the negotiation.

APPLICATION OF TOOLS AND METHODS

This segment presents a set of practical steps to map the role and interactions of stakeholders in a given negotiation process.

The proposed tool goes through a series of practical and simple steps towards the mapping of stakeholders of influence in a negotiation process. To undertake such mapping, we will work with a situation drawn from recent practice.

SITUATION 1

MAPPING THE NETWORK OF INFLUENCE OF THE GOVERNOR OF DISTRICT A

The International Monitoring Committee (IMC), 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 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.

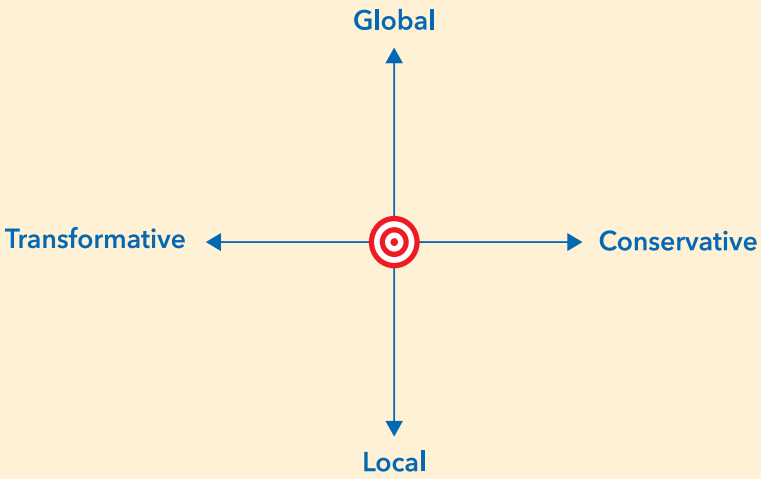
- Several international actors who have been supportive of the strong hand of the Governor in maintaining security and law and order. District A is a strategic geographic area for several countries. The International Military Alliance as well as the Special Forces of Country A have deployed troops in the District to counter terrorist actions. Foreign intelligence services are training local investigators. 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 used as an excuse for foreign interventions. These 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 IMC 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 between 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 standard model of "left" to "right" positioning on a traditional political scale, the left part being composed of people and organizations that aim to reform or transform the current system, the right part being composed of people and organizations that want to maintain the current system and ensure the continuation of current methods. The further away from the center, the more radical the perspective of the actors compared to the other stakeholders.

Vertical axis: Distributing stakeholders based on their characteristics from global to local actors

The vertical axis provides **comparative values of the stakeholders' identity based on a critical characteristic** as a point of leverage of their influence 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 share some characteristics in the eyes of the counterparts, grouping them in terms of global vs. local constituencies. It is important to note that these characteristics are linked to the perception of the counterpart, in our 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, being composed mostly of local professionals or volunteers and connected to local constituencies. The same applies to all the actors on the map that are of influence on the issue, distributed in the four quadrants of the map. Those who have little to no influence on the main counterpart (e.g., lay people, foreign migrants, local implementing partners of large international agencies, etc.) are mostly invisible to the political eyes of the Governor.

The stakeholder map should focus on the actors that:

1. Have a relationship, or otherwise exert an influence on the main counterpart; and,

2. Have enough of a cogent and continued physical presence in the context that the humanitarian negotiation can relate with them.

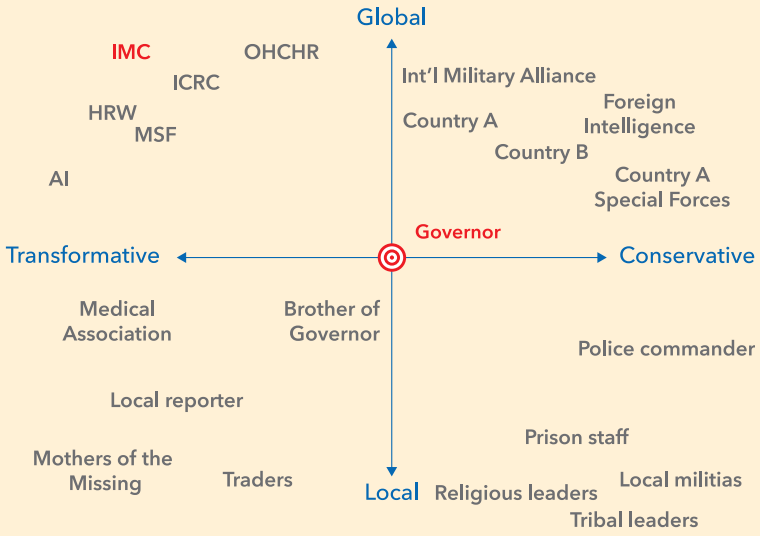
Hence, the map is useful not as a detailed scientific assessment of the origins of all the perceptions of the Governor, but to help negotiators prioritize their diplomatic efforts in the context.

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 can, however, think about any additional axes that may be useful to establish a networking strategy (e.g., creating a 3-D map). One can also add dimensions qualifying each actor on a size or color scheme to introduce a comparative weight of influence, color-coding other 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, one will position 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 the extent it plays a role in the decision-making process of the Governor and is visible to him/her.



As one may note, 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 and their characteristics. While some actors are in favor of the demands of IMC, 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.

While each of the quadrants constitutes de facto 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 the point of equilibrium among competing actors. On his side, the Governor will attempt to remain within the "acceptable" limits in the view of all the main stakeholders to maintain the legitimacy of his/her authority over the issue.

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 IMC. 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 both in terms of influence and options;
- be seen as a risky move by those located on 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 the local influence over the issue of access to police stations by granting this right to a foreign organization;
- as in the previous point (regarding the Local Transformative quadrant), similarly apply to those located in the upper-right quadrant (Global Conservative),

who may recognize that the Governor is becoming more amenable to global influencers but appear misguided in terms of policy of access to police stations.

Overall, each move of the Governor toward IMC negotiators will be interpreted in political terms by all the other stakeholders and will impact on their individual political relationships with the Governor. A major success of the humanitarians may translate into major headaches for 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.

Humanitarian issues may have serious political and security ramifications. It is critical that humanitarian negotiators engage with the stakeholders on such concerns to determine their own agenda and maximize or minimize the impact of the negotiation outcome on those matters. Such efforts should be made visible to the Governor as these will help to convince him/her that he/she can afford the cost of moving in the appropriate direction envisaged in the negotiation process.

One may also note that 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.) It very much depends on the individual position on the map. This relative perspective is of interest once IMC will start relating with these stakeholders to understand the entry points of the relationship from their own perspectives.

STEP 3

Engage with the stakeholders in the four quadrants of the map in order to prepare the negotiation and mobilize positive influences

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 tactic will be distributed as follows.

IMC 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;

   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 of IMC is to maximize the coordination among stakeholders to achieve the goal in the quadrant in the 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 underline is that there is much more to gain by working together than competing in view of the similarities of the messages.

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.

   Actions may include :
   - Providing support to local organizations on 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 of IMC is to support local actors in a visible way so as to demonstrate to these actors and the Governor that IMC understands the exposure of the Governor to an increasing global influence that IMC 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.

   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 of IMC 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 IMC is aware of the importance of global influence, and to the Governor that IMC is keen to manage the exposure of the Governor for a move towards 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 IMC's access to police stations.

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 IMC in line with local values.

The objective of the interactions of IMC with conservative local actors is to mitigate the risks that spoilers may represent by assessing their red lines in terms of negotiation with the Governor regarding IMC's access to police stations and seeing the extent to which IMC representatives could alleviate the concerns of these groups.

Please note that this tactical map is made for IMC 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 global conservative actors.

STEP 4

Prioritize efforts in influencing stakeholders

The previous three steps are part of the mechanic of mapping the influence of the political environment over the Governor in his/her role as a counterpart to the negotiation of IMC. 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. As mentioned in the introduction, investment in influencing actors must be made consciously and sparingly, 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 whom:

1. Are open to listening to the arguments of IMC (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 IMC'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 IMC's proposed visits, ending with a positive intervention in favor of IMC to the Governor.

Building on the current stakeholder mapping, one may color code the stakeholders as:

A. Open and able to explain IMC interests and motives:

Most able and open — Least able and open

B. Able to link up the trustful relationships among the actors:

Prioritizing the efforts of IMC 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 diplomats of Country A

   c) The police commander

2. The most able and direct transmission of positive influence on an IMC 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 IMC to the Governor.

4. IMC negotiator's priority listing

As a result of this analysis, the negotiator of IMC, understanding the specific perceptions of IMC by the counterparts, should focus his/her attention on the following actors who have a potential positive role to play in the negotiation process:

This priority of the humanitarian diplomatic efforts of IMC negotiators does imply that there could be other reasons to relate with the actors on the map. This table allows only a prioritization based on the prospect of influence over the Governor with regard to the negotiation of access to the police stations.

DESCRIPTION OF ACTOR	# OF DEGREES TO THE GOVERNOR	PERCEPTION OF IMC	PROPOSED MEASURES
Transformative Global - ALLIANCE			
ICRC	3	- Slightly radical - Slightly global	- Seek synchronicity in interventions - Seek technical support and training to follow standard approach of ICRC
MSF	5	- Slightly global - Slightly radical	Propose to join efforts in supporting the Local Medical Association
Transformative Local - COOPERATION			
Local Medical Association	4	Too global	Propose to organize a workshop on prison medical ethics in the local language
Mothers of the Missing	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	1	- Way too global - Way too transformative	Try to establish a personal contact and seek a dialogue, e.g., using traders' connection
Traders (limited ability to transmit)	2	Way too global	- Maintain good business relationships with local providers - Engage social and cultural activities
Conservative Global - COALITION			
International Military Alliance	2	Way too transformative	Seek a dialogue on international norms regarding counterterrorism
Conservative Local - MITIGATION			
Religious leaders	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	1	- Way too transformative - Way too global	- Seek to establish a professional dialogue and alleviate suspicions - Seek his participation at the workshop with the Local Medical Association
Prison staff	2	- Way too transformative - Way too global	- Seek to establish a professional dialogue and alleviate suspicions - Seek his participation at the workshop with the Local Medical Association

PRACTICE AND SIMULATIONS

This segment offers the opportunity to readers to exercise their mapping skills. The case builds on the previous modules and will be used across the Section.

CASE 1

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 from leaving their residence in District A for almost a week by tribesmen following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows plans of HfA 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 remains open. Families of patient 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

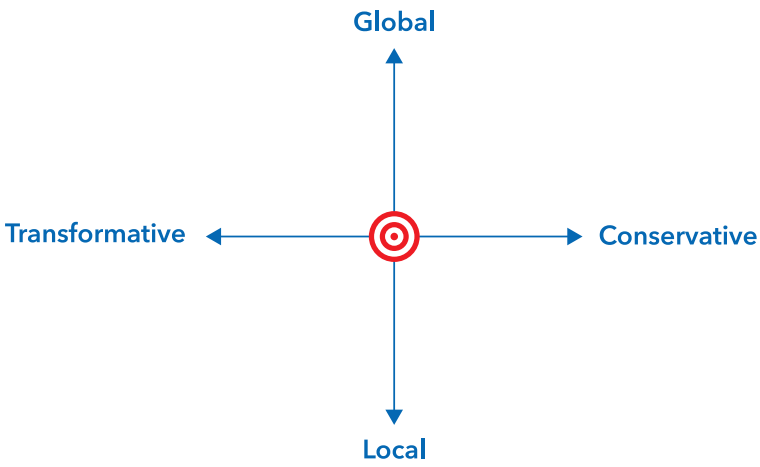
Define the axes of the two-dimensional stakeholder map

See grid below.

STEP 2

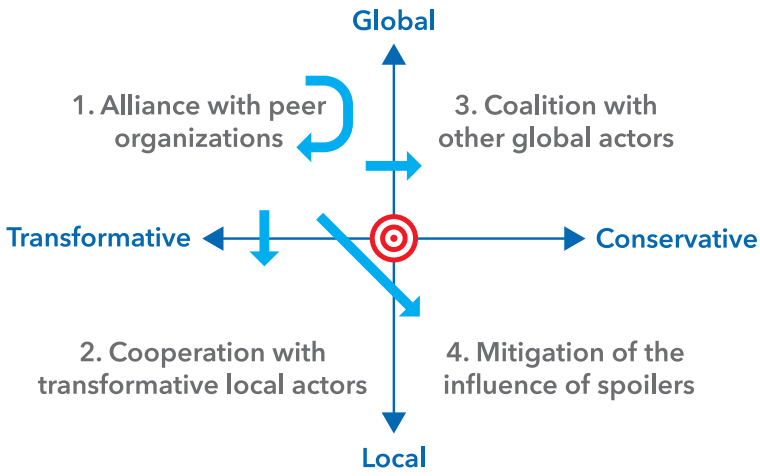
Identify your target and assign position of influence to all the stakeholders

Allocate the actors mentioned in the short case to the appropriate location on the map.



STEP 3

Engage with the stakeholders in the four quadrants in order to prepare the negotiation and mobilize influence of stakeholders.



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.

   Actions may include:

   i) _____

   ii) _____

   iii) _____

What are the objectives of the interactions of HfA with peer organizations?

_____

_____

_____

2. Cooperation with those on the adjacent vertical quadrant across the Global/Local divide.

   Actions may include:

   i) _____

   ii) _____

   iii) _____

   iv) _____

The objectives of these interactions of HfA with local transformative actors are:

_____

_____

3. Coalition with those on the adjacent horizontal quadrant across the Transformative/Conservative divide in the perception of the counterpart.

   Actions may include:

   i) _____

   ii) _____

   iii) _____

   iv) _____

The objectives of these interactions of HfA with conservative global actors are:

_____

_____

_____

4. Mitigation with those on the opposite quadrant across both divides, often referred to as the "spoilers" who have little to gain from the negotiation process.

   Actions may include:

   i) _____

   ii) _____

   iii) _____

   iv) _____

The objectives of the interactions of HfA with conservative local actors are:

STEP 4

Prioritize efforts in influencing stakeholders

1. What are the key demands of your organization in this context?

2. Who should be the key "entry points" for the purpose of leveraging positive influences over the tribal leaders?

Building on the current stakeholder mapping used previously, please color code the stakeholders on the ORIGINAL MAP as:

a) Open and able to explain HfA's interests and motives:

Most able and open — Least able and open

b) Able to link up the trustful relationships among the actors:

Based on this analysis:

3. The most trusted advisors to the counterpart are:

a) _____

b) _____

c) _____

4. The most able and direct transmissions of positive influence on an HfA proposal seem to be:

Track one: _____

_____

Track two: _____

_____

3) The least productive points of entry in this context are:

a) _____

b) _____

c) _____

4) HfA negotiators' priority listing

As a result of this analysis, the negotiators of HfA should focus their attention on the following actors who have a potential positive role to play in the negotiation process, understanding their specific perceptions of HfA:

DESCRIPTION OF ACTOR	# OF DEGREES TO THE TRIBAL LEADERS	PERCEPTION OF HFA	PROPOSED MEASURES
Transformative Global - ALLIANCE			
Transformative Local - COOPERATION			
Conservative Global - COALITION			
Conservative Local - MITIGATION			

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the particular tool and facilitate individual and collective reflections on the analysis of contexts in a frontline negotiation.

Points for professional deliberations

1. The notion of equilibrium is an essential aspect of the use of the network map. What are the political interests of the main counterpart to remain in the center of the map?
2. What are the political ramifications of the counterpart's acceding to the demands of humanitarian organizations?
3. What are the political ramifications of the counterpart's rejecting humanitarian demands?
4. How can a humanitarian organization respond to the counterpart's ramifications?
5. Can a humanitarian organization remain neutral in a humanitarian negotiation?
6. To what aspects does neutrality apply? In the eyes of which stakeholders?
7. What are the potential consequences of losing this perception of neutrality?

Identifying priorities and objectives

CONCEPTUAL DESCRIPTION

The purpose of this module is to explore ways to identify one's priorities in a negotiation process as well as the 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.

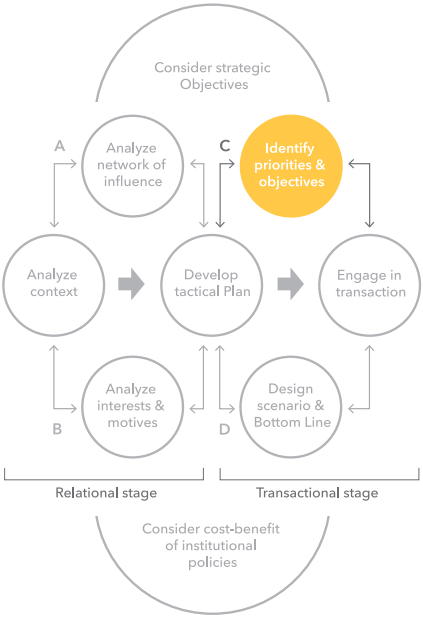


Figure 1: Identifying priorities and objectives in pairs with the interests and motives of counterparts

This module builds on the analysis of interests and motives of counterparts presented earlier in this Section through the use of the "iceberg" template. It informs the tactical planning of one's own organization for the negotiation table by setting the Common Shared Objectives (CSOs) of the negotiation. The main point of this module is to support the development of a tactical plan that will allow bridging the gap between the position of the counterpart and the ones of our own organization.

At the point of departure, priorities and objectives of a negotiation process are drawn from the mandate provided by the mandator, i.e. from the institutional hierarchy of the negotiator. This mandate is designed on the basis of the strategic objectives and mission of the organization, as well as the limitations entailed in its institutional policies restraining the options available to the negotiator. The mandate frames the negotiation process from both ends. Section **Orange** will elaborate on the elaboration of negotiation mandates. The purpose of this module is to facilitate the identification of the priorities and specific objectives of a negotiation process from the interpretation of the mandate.

To identify these priorities and objectives, one may consider mirroring the interests and motives analysis of the counterpart presented previously, using the same iceberg, but this time focusing on our own organization, starting from the values and motives of the organization, to examining its tactical interests and methods, and finally climbing up the iceberg to the position of the organization in the particular negotiation that will be communicated to the counterpart.

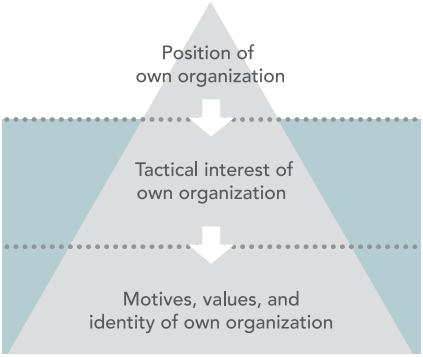


Figure 2: Analyzing the position of one's organization in a given negotiation

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

1. **WHY** does our organization hope to operate in the particular context? What are our inner motives and values?

2. **HOW** does our organization intend to operate? What problems are we trying to address? What professional tools and methods do we plan to implement?

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. While one can only interpret the tactical interests and motives of the counterpart starting from the position of the counterpart communicated at the negotiation table, the position of one's own organization is based on a known set of values and norms of the humanitarian organization, on which its tactical interests are built on in the form of methods, professional standards and programmatic objectives, which, 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 onset of the negotiation.

Hence, the values and identity of the humanitarian organization serve as a bedrock for defining the tactical interests and mode of operation of the organization, which, in turn, prescribe a starting position on the technical modalities of the operation to be negotiated. It is important to build one's iceberg in such a way as to be able to explain one's position in a negotiation through the various angles at any points of the negotiation. This communication

will also facilitate the passage from different types of negotiation and back, 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.)

Building one's own iceberg helps to prepare this passage. These levels are presented in Section **Green** on Typology of a negotiation.

With this understanding, one is able to identify a space of negotiation between the two parties. This space is considered as the potential area of common shared values, methods, and position, assuming the willingness of the parties to make the necessary compromises.

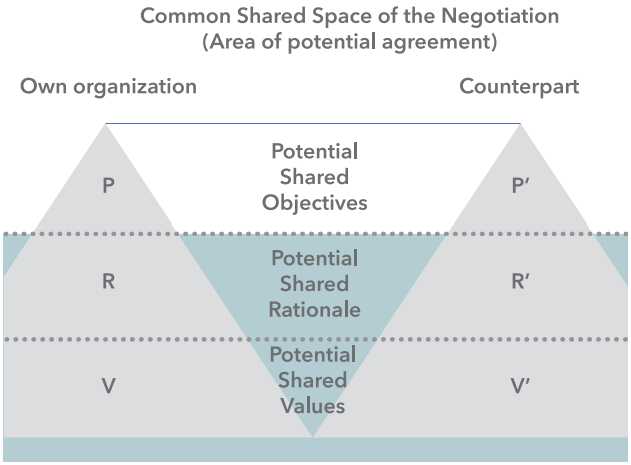


Figure 3: Defining the Common Shared Space of the Negotiation

Identifying the area of the negotiation therefore involves:

1. The communication of the respective positions of the parties (P) and (P');

2. The ability to explain one's rationale tactical interests (R) and connect it to the rationale 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, offering an opportunity for dialogue and improved understanding of the counterpart. It represents the "Common Shared Space" of the negotiation, i.e., the space in which parties are willing to find a compromise.

Acknowledging the Common Shared Space is an important step in the negotiation process so as to prevent antagonism between the parties from the outset due to their divergent positions (P and P'). The negotiation should be presented as a process for the parties to explore ways to reconcile P and P' and find the right equilibrium between the parties' inner values, tactical interests, and positions. This equilibrium may well not be at a balance point between each of the parties' iceberg. Several factors are at play in a negotiation process that may bend the balance on one side or the other, i.e., power relationship between the parties, uneven need to find an agreement, time pressure on one side, willingness of the respective parties to compromise, and so on. Yet, a negotiation can truly start only if both parties communicate their entry positions (P and P') as their ideal outcome and then recognize the need to explore possible options of compromise within the Common Shared Space.

APPLICATION OF TOOLS AND METHODS

This segment 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 modules.

SITUATION 1

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 from leaving their residence in District A for almost a week by tribesmen following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows plans of HfA 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.

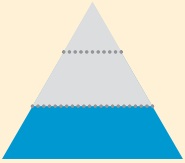
For now, the hospital is barely operational, with several emergency needs left unattended. Tribal leaders are increasingly concerned about the health situation in District A and insist that the hospital remains open. Families of patient have been complaining about the lack of services in the hospital.

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 one's position starting from the organization's values and motives

Building on the checklist of questions presented previously in the interests and motives analysis module, one can elaborate the position of the HfA starting from the values and motives of the organization and building up HfA's iceberg towards the entry position at the negotiation table. One starts in this case 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 the values and motives from the position at the negotiation table, they are part of the genesis of the mission and presence of the HfA in this context.

QUESTIONS	POTENTIAL ISSUES
WHO is HfA? What values define HfA as a humanitarian organization? **WHY** does HfA want to operate in this context? 	**VALUES AND MOTIVES** The mission and identity of HfA are predicated on several elements that are of relevance in this particular context: • HfA is a humanitarian organization. It operates under a set of principles detailed in its mission statement (neutrality, impartiality, proximity, etc.). • 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. • 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. • It is a non-profit organization providing free services to populations in need of health care. • It is transparent, well managed, and a diligent employer keen to maintain good relationships with the people and communities it serves. • 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. • 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.

QUESTIONS	POTENTIAL ISSUES
HOW does HfA intend to operate? What are the specific methods?	**RATIONALE** • HfA is a professional organization. It maintains professionally recognized protocols in terms of medical services, managerial methods, and financial accountability to donors. • It maintains a dialogue with the community and local health professionals around assessing the needs of the population. • 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. • It is also accountable to the health authorities of Country A in terms of its role and objectives in the health care system of the country. • 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. • A direct link is maintained between HfA guards and the local police force. • 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.

QUESTIONS	POTENTIAL ISSUES
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?	**POSITIONS** • 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 to a third party, including obligations towards the guards and their families. • Meanwhile, HfA engages in consultation to rebuild trust with the community.

STEP 2

Identify potential areas of agreement at the three levels of the iceberg starting from shared values

By identifying the critical elements through the process of Step 1, parties are able to trace the contours of the Common Shared Space of the negotiation, i.e., the area for potential agreement on the common values, tactical interests, and positions. In our case, the range of options includes converging and diverging elements at each level of the negotiation. Discussions should allow for conversation on convergent aspects of the Common Shared Space and see how it can address expectations on other elements in a second step.

The following step is designed to assess the potential **shared values** by building on the iceberg assessment above:

POTENTIAL SHARED VALUES:

CONVERGENT ELEMENTS	DIVERGENT ELEMENTS
• The welfare of the community is of concern to both sides, in particular in view of the rise of communicable disease. • Both sides also share concerns for the well-being of the families of wounded guards and those killed on duty in recent years. • 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. • Both sides appreciate the importance of evidence-based decision-making, ensuring objective policies in terms of community health.	• The legitimacy of tribal leaders in the eyes of the community is not a primary concern to HfA. • 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. • Continued employment of the guards is not a core mission of HfA.

This assessment of the potential shared values is of importance to ground the negotiation in 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 rationale** by building on the converging values mentioned above:

POTENTIAL SHARED RATIONALE:

CONVERGENT ELEMENTS	DIVERGENT ELEMENTS
• The safety and security of staff are common goals of both sides. • It is important to de-escalate the situation and resume normal operations to mitigate reputational risks on both sides. • Greater consultation with the community and the tribal leaders is part of the solution. • It is important to restore the activities of the hospital and ensure the integrity of its staff and premises. • There needs to be an assessment of the rise of communicable disease in District A. • There needs to be an assessment of the vulnerability of families of injured guards and guards killed on duty over recent years. • HfA as a community-based employer should consider the vulnerability of local staff as an impact of closing the hospital.	• 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. • Holding staff is a way of drawing attention from foreign leaders. • HfA is a charitable organization accountable to its foreign board and donors. • The presence and roles of local law enforcement and authorities vs. tribal leaders in this matter are problematic. • Tribal traditions should be the governing standard of labor relations between HfA and its local staff and a measure of the liabilities of HfA towards the employment of the guards and the compensation of the families of injured or killed guards.

The assessment of potential shared rationale and methods allows one 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 objectives** of the negotiation by building on the two previous steps.

POTENTIAL SHARED OBJECTIVES:

CONVERGENT ELEMENTS	DIVERGENT ELEMENTS
• Medical needs should be addressed promptly, and staff should be allowed to return to work. • Tribesmen should withdraw from the perimeters of the residence so as to allow staff to go back to work when necessary. • There is no need to rush into a decision on the closure of the hospital. Further consultation should be undertaken. • Assessment of the vulnerabilities of staff to the potential redeployment of HfA assets should be undertaken. • HfA will seek greater support on communicable disease in the region.	• HfA cannot guarantee continued employment of local staff. • HfA cannot be seen as carrying out the responsibilities of the health authorities of District A. • Tribal leaders cannot accept the closure of the hospital. • Tribal leaders are not the police force in District A. They cannot guarantee the full safety and security of staff. • Guards will not forfeit their right to full unemployment compensation. • Families of guards will not forfeit their right for compensation.

With this analysis in mind, humanitarian negotiators are in a position to consider their bottom line and red line as presented in the next module.

PRACTICE AND SIMULATIONS

This segment offers the opportunity to readers to hone their analytical skills by building on the exercise undertaken in the module on analyzing the interests and motives of the counterparts. The same three cases of the latter module are used, requiring the readers to draw from the results of the exercises on analysis the position of the counterpart of the previous modules to complete the exercise in this module.

CASE 1

PROVIDING LITERACY MATERIAL FOR CHILDREN ENROLLED IN A MILITARY ACADEMY

At a regular meeting on access to areas affected by armed violence and conflict, the military commander of the District has requested the support of the National Children's Fund (NCF), a national NGO, to acquire educational material for unaccompanied children enrolled in a local military academy. Country A is at war with rebel groups and unaccompanied children aged 12-16 years old graduating from the academy are regularly sent to the rebel-held areas as (unarmed) scouts observing and documenting the positions of the enemy. The literacy program is directed towards their capability to document military movements of rebel troops.

STEP 1

Build the iceberg of one's position starting from the organization's values and motives

Building on the analysis of the position of the military commander in the previous segment, one should undertake an analysis of the iceberg of NCF.

1. WHAT ARE THE VALUES AND NORMS OF NCF ?

a) What is the core mission of NCF ?

b) What are the underlying values & norms of NCF ?

c) Why should NCF work in such a situation ?

2. WHAT IS THE RATIONALE OF NCF IN SUCH A SITUATION ?

a) How does NCF intend to have an impact in this situation ? What are the limitations ?

b) What is/are the logical argument(s) ?

c) What professional criteria should NCF use ?

3. WHAT IS THE POSITION OF NCF IN RESPONSE TO THE DEMAND OF THE MILITARY COMMANDER ?

a) What does NCF want ?

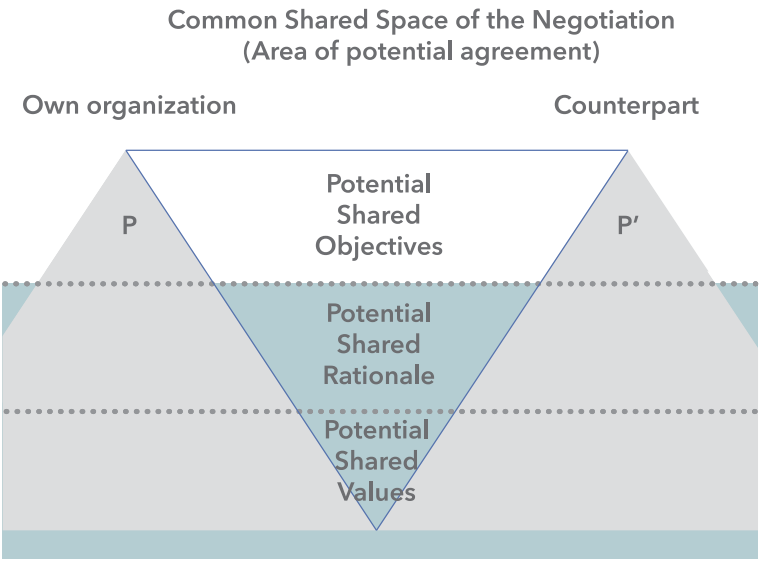
b) How should it respond to the commander ?

c) How can it maintain a dialogue on the welfare of children ?

STEP 2

Identify potential areas of agreement at the three levels of the iceberg starting from shared values

Based on the previous analysis and the one conducted in the previous segment on the interests of the military commander, one should be able to trace the contours of the Common Shared Space of the negotiation, i.e., the area for potential agreement on the common values, tactical interests, and positions.



POTENTIAL SHARED VALUES :

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POTENTIAL SHARED RATIONALE :

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POTENTIAL SHARED OBJECTIVES:

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CASE 2

ASSESSING THE NUMBER AND STATUS OF IDPS RECEIVING FWB FOOD RATIONS

Representatives of Food Without Borders (FWB), an international NGO, are visiting a remote IDP camp of Country A under the control of an armed group to assess the number of beneficiaries of its food distribution program in the region. The data shows over 18,500 persons living in the camp receive regular FWB food rations, equally divided between genders.

While visiting the IDP camp, FWB representatives observed the absence of any males aged between 12 years and 60 years old. Government military has argued that the males are forcibly recruited by listed terrorist groups and complained that parts of the FWB food rations are diverted by the armed groups to feed its combatants. FWB has mandated its representatives to step up the monitoring of the distribution of food rations by requesting the presence of FWB representatives during the distribution of food by the local contractor.

The camp does not seem to have any clear leadership. The pastor of the camp parish and the teacher of the school are too busy to meet with FWB representatives. An elderly man of the camp, nicknamed "The Mayor," meets with them in the community room. He disagrees with the proposal for greater monitoring, arguing that the distribution of food rations is an internal affair of the community. It takes place among women from each family and FWB must respect local customs. He otherwise explained that all the males of the community are currently harvesting crops in the surrounding fields.

STEP 1

Build the iceberg of one's position starting from the organization's values and motives

Building on the analysis of the position of the Mayor in the previous segment, one should undertake an analysis of the iceberg of FWB. In particular:

1. WHAT ARE THE VALUES AND NORMS OF FWB?

a) What is the core mission of FWB?

b) What are the underlying values & norms of FWB?

c) Why should FWB work in such a situation?

2. WHAT IS THE RATIONALE OF FWB IN SUCH A SITUATION ?

a) How does FWB intend to maintain the impartiality of its food assistance and avoid diversion ?

b) What is/are the logical argument(s) ?

c) What professional criteria should FWB use ?

3. WHAT SHOULD THE POSITION OF FWB BE IN RESPONSE TO THE DEMAND OF THE MAYOR ?

a) What does FWB want ?

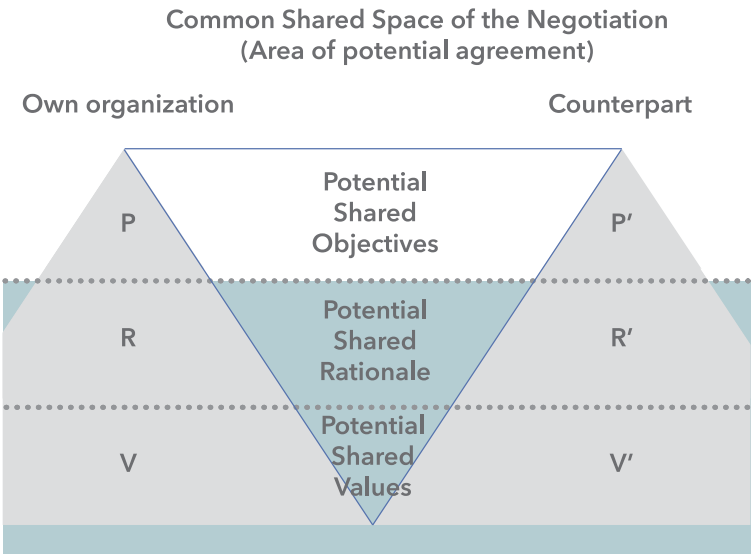
b) How should it respond to the Mayor ?

c) How can it maintain a dialogue on the diversion of aid ?

STEP 2

Identify potential areas of agreement at the three levels of the iceberg starting from shared values

Based on the previous analysis and the one conducted in the previous segment on the interests of the Mayor as a representative of the camp, one should be able to trace the contours of the Common Shared Space of the negotiation, i.e., the area for a potential agreement on the common values, tactical interests, and positions.



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POTENTIAL SHARED RATIONALE:

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POTENTIAL SHARED OBJECTIVES:

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CASE 3

IMC MEETS WITH THE VICE-PRESIDENT TO DISCUSS MODALITIES OF OPERATION

Representatives of the International Monitoring Committee (IMC), an international NGO mandated to monitor conditions of detention, are meeting with the Vice-President of Country A to discuss the modalities of IMC visits to prisons in Country A. The meeting takes place in the Presidium Palace, a heavily fortified government building. After walking for more than 45 minutes in long and dark alleys, the IMC representatives are invited to sit at a table in the middle of a very large room. On one side of the table, the Vice-President is joined by the Deputy-Minister of Foreign Affairs and a translator. On the other, the two representatives of IMC are invited to sit.

Without much introduction, the Vice-President launches into a monologue of about 90 minutes on the economic and social achievements of Country A under the doctrine of the ruling party. At the end of the speech, the Vice-President concludes by welcoming the IMC representatives to Country A and seeking their support in the development of the prison system. A group of photographers enters the room and they take a series of pictures of the two sides meeting. The meeting is adjourned without much input from the representatives of IMC.

STEP 1

Build the iceberg of one's position starting from the organization's values and motives

Building on the analysis of the position of the Vice-President in the previous segment, one should undertake an analysis of the iceberg of IMC. In particular:

1. WHAT ARE THE VALUES AND NORMS OF IMC?

a) What is the core mission of IMC?

b) What are the underlying values & norms of IMC?

c) Why should IMC work in such a situation?

2. WHAT IS THE RATIONALE OF IMC IN SUCH A SITUATION ?

a) How does IMC intend to gain access to the prison of Country A ?

b) What is/are the logical argument(s) ?

c) What professional criteria should IMC use ?

3. WHAT SHOULD THE POSITION OF IMC BE IN RESPONSE TO THE DEMANDS OF THE VICE-PRESIDENT ?

a) What does IMC want ?

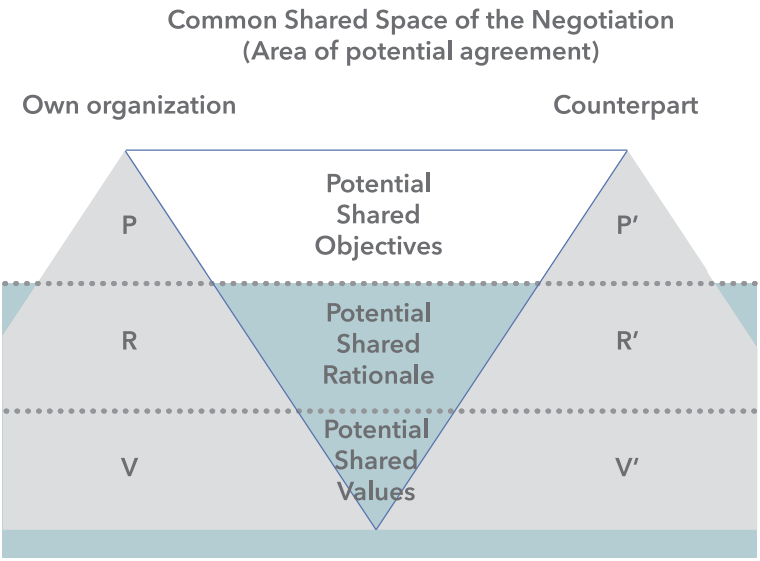
b) How should it respond to the Vice-President ?

c) How can it maintain a dialogue on unhindered access to prison ?

STEP 2

Identify potential areas of agreement at the three levels of the iceberg starting from shared values

Based on the previous analysis and the one conducted in the previous segment on the interests of the Vice-President, one should be able to trace the contours of the Common Shared Space of the negotiation, i.e., the area for a potential agreement on the common values, tactical interests and positions.



POTENTIAL SHARED VALUES:

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POTENTIAL SHARED RATIONALE:

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POTENTIAL SHARED OBJECTIVES:

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PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions of negotiation teams on the particular tool and facilitate reflections on the efforts of elaborating a cogent position at the negotiation table.

Points for professional deliberations

1. Where and how can a negotiator find the core values and norms of an organization?
2. To what extent can the negotiator interpret the mission of the organization in the particular context?
3. What is the role of the mandator in providing such information?
4. What are the criteria to test the logic of one's position? In whose eyes?
5. What are the limitations imposed on some of these logical arguments (e.g., "Do no harm")?
6. How clear should one be in transmitting a position/response to the counterpart? Are there situations where one should maintain some ambiguities?

Design of scenarios and identification of bottom line

CONCEPTUAL DESCRIPTION

The purpose of this module is to assist the negotiation team in the design of scenarios to guide the dialogue between the parties at the negotiation table.

From the outset, the design of scenarios occurs when most of the preparatory steps of the negotiation planning process have been finalized, i.e., the context has been analyzed, the interests and motives of the counterpart have been surveyed, the network of influence has been mapped out, and a relationship with the counterpart and the major stakeholders has already been put into place. The relational stage of the negotiation has allowed the elaboration of a

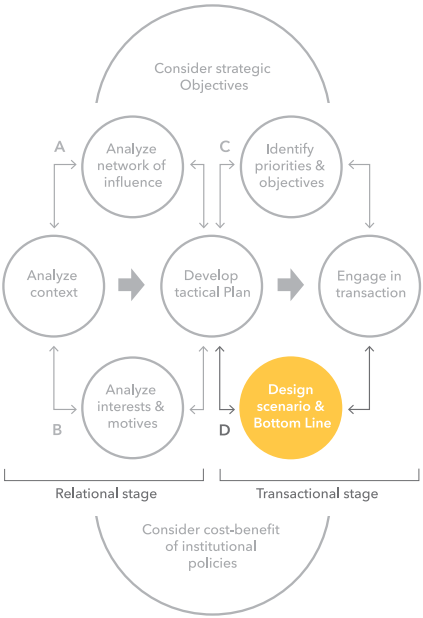


Figure 1: Developing scenarios informed by the potential response of the counterpart and its stakeholders

series of tactical steps to engage with the counterpart in a dialogue. Yet, before one considers engaging in the final stage of the negotiation, i.e., the search for an agreeable solution to the competing positions, the team should consider the limits set by the legal, institutional, professional, and moral frameworks of the operation on the scope of options, as well as the terms of the mandate given to the negotiator.

This analysis of the limits of the scope of options will set the outer boundaries of the negotiation process in which the negotiator will develop the scenarios of the negotiation. These scenarios should also integrate the bottom lines and red lines of the counterpart and other stakeholders as these constraints all impact jointly on the orientation of the negotiation process.

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 scope of agreements set by the mandate of the negotiator. This mandate is informed by the applicable laws as well as institutional policies. These red lines cannot be crossed; the cost of breaching one or more of these normative frameworks would lead to significant consequences on the validity and legality of the agreement between the parties, and can also have implications for the legitimacy of the negotiator and his/her own organization. A breach may also involve legal liabilities for the negotiator, e.g., under counter-terrorism legislation. The negotiator is, in principle, unable to set or change 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 so as to focus the scenario of a negotiation on a specific range of agreeable options. 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 require consulting again with his/her hierarchy or stakeholders of the process. The results of the consultation may impact upon the location of the bottom line of the negotiation and of its scenarios.

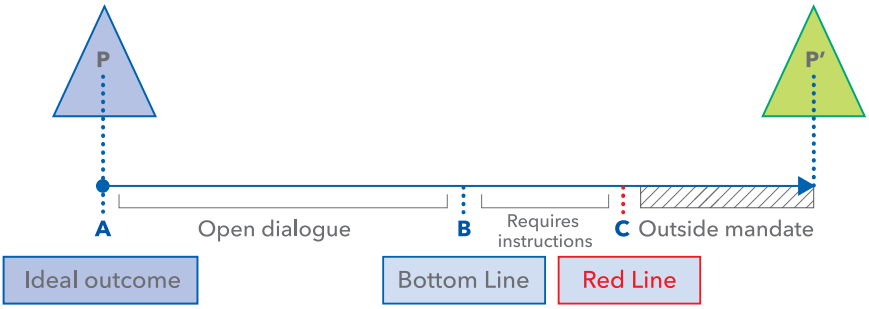


Figure 2: Distinguishing Bottom Line and Red Line in the Common Shared Objectives of a humanitarian organization

As far as the humanitarian negotiator is concerned, the starting position at the top of the organization iceberg is the ideal outcome of the negotiation (P = A as the best possible outcome in terms of agreement), where the benefit of such agreement for the humanitarian organization is maximized with little to no compromise required.

As compromises are being considered in an open dialogue with the counterpart, raising the cost and lowering the humanitarian benefit of the proposed agreement, the exchange may reach the bottom line set by the negotiator (point B). The bottom line is a point where the negotiator pulls himself/herself out of the open dialogue to require further instructions from the mandator, i.e., the negotiation is not broken but the negotiator will need further instruction to discuss further compromises. Once the new instructions are received, the dialogue may then continue to explore options up to a clear set of red lines that should be communicated early to the counterpart so the fact that the negotiator is going back to the mandator cannot be interpreted as a possible compromise below point C. 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 maximize the chances of building a trustful relationship with the counterpart around a shared position, such that the negotiators on both sides can agree and implement without having to refer back to an external authority.

Example 1

FWB is required to pay local laborers in kind in the distribution of aid to the refugee camp

FWB is planning to distribute food rations to a refugee 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.

The work required from the guards goes beyond their security functions. Compensation is therefore probably due to these guards as for any other day laborers. The security guards require food rations as a compensation for their work. Payment in cash is hardly feasible in the region and food rations are becoming the only acceptable currency. The guards and their families are not part of the refugee population. The authority of the camp will not allow anyone else to work for FWB.

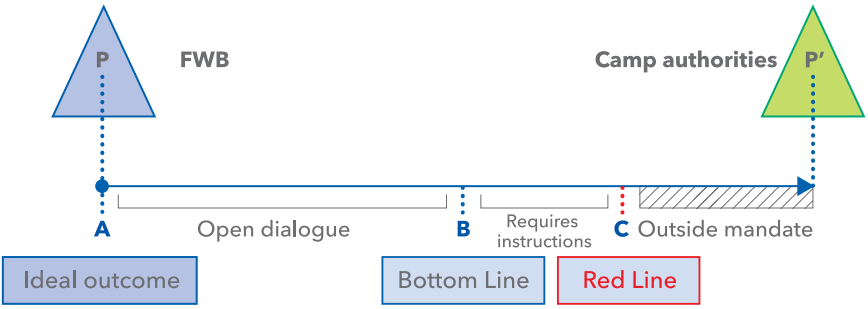


Figure 4: Distinguishing the ideal outcomes for FWB and the camp authorities.

In line with the principles of impartiality, the ideal outcome of FWB (point A) is that all the food rations are distributed to the affected refugee population based strictly on their nutritional needs and that FWB can hire the day laborers of their choice to assist in its work.

The red line (point C) as per the mandate given to the negotiator by FWB hierarchy is that FWB should not agree to distribute or circulate food rations to people not in need, e.g., used as a cash substitute for commercial transactions or compensation for labor which could appear as diversion of food aid.

The bottom line of the FWB negotiator (point B) is that food rations should be limited to refugees in need. There could be exception to this limit, such as distributing food ration to people in need (i.e., to include other people than the refugee population in the camp), such as the families of the day laborers and local guards. In this context, FWB could consider distributing additional rations to families of day laborers as people in need. Any compromise in the area B to C will require the consent of the mandator.

Due to the sensitive character of food diversion and the fact that security guards may belong to a local militia active in the conflict, raising concerns regarding the principle of neutrality, discussing payment in kind to the security guards is below the bottom line (point B) but could be above the red line (point C), especially if the families of the guards are food insecure.

In such case, the negotiator should refer the request for in-kind payment to the mandator while explaining to the counterpart the limitations of the terms of the food distribution of FWB.

Based on the previous analysis of the interests and motives of the counterparts, one can also draw the perspective of the authorities of the camp on the same scale.

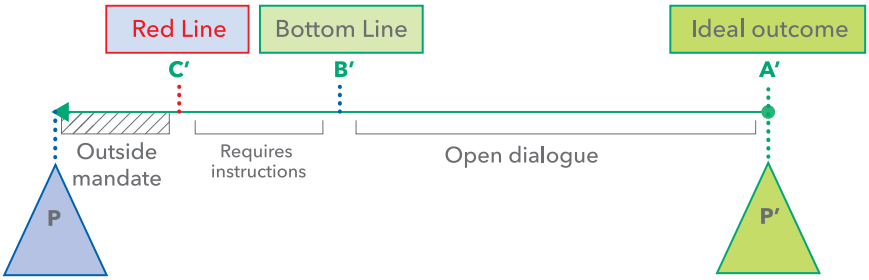


Figure 4 : Distinguishing Bottom line and Red line in the Common Shared Objectives of a counterpart.

The reading of the situation in the case above could look like:

- The **ideal outcome** of the authorities of the camp (point A') is to require FWB to hand over the distribution of the food to the camp guards and let them manage the process for a payment in food rations.

- The **red line** of the authorities of the camp (point C') could be to appear as the point where they lose entirely the control over the food distribution in the camp and become unable to share some benefit with the local security guards. A precondition for an agreement may well be that camp staff are involved in the distribution of the food rations for which they should get a benefit.

- The **bottom line** of the authorities of the camp (point B') could be to allow FWB to manage some of the food distribution in the camp but only through the hiring of the local security guards in the camp and their compensation in food rations. Any compromise below this point will require a consultation with the camp commander.

Discussions of the modalities of payment to the guards proposed by FWB, i.e., to distribute assistance only to the guards' families in need and not to the guards directly, is probably above the red line of the camp authorities but below the bottom line of their negotiator. The negotiator representing the counterpart will probably refer back to the camp commander to seek further instructions.

In view of this assessment, the negotiator of FWB is in a position to draw the most likely scenarios of the specific negotiation:

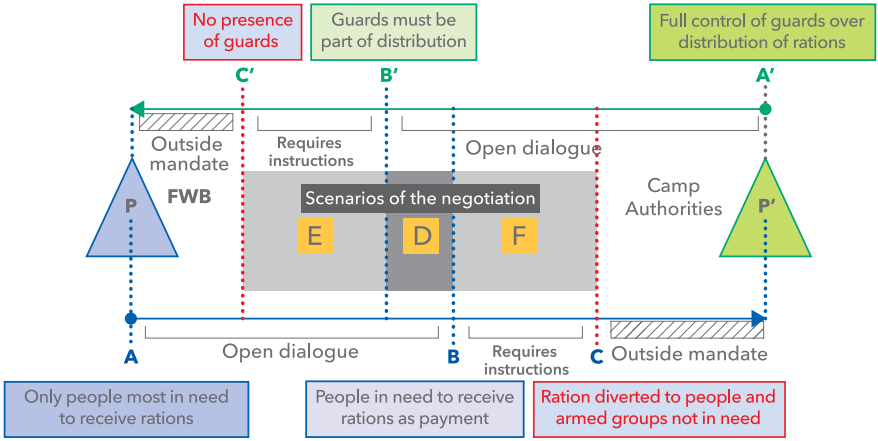


Figure 5 : Integrating the parties' perspectives into a common scenario

Once the two lines of arguments are drawn, one can set the possible scenarios of the discussion :

Scenario D
(Common Shared Objectives) **:**
The two sides can agree within the respective mandate (the space between B and B' as a shared space of open dialogue) :

- the security guards can take part in the distribution;
- their families can receive additional rations to the extent they are food insecure.

Scenario E :
FWB may pull the conversation towards a more principled approach but this scenario will be 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 the same as everyone else by FWB.

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.

Scenario F :
The camp authorities may require 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 as a pragmatic step in the operation.

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 involve the absence of security guards or the full control of the distribution of the aid by security guards are off the table. So, there is no point in pondering these possibilities for too long unless FWB or the camp authorities intend to dig their heels on their principled position without much hope of finding an agreement.

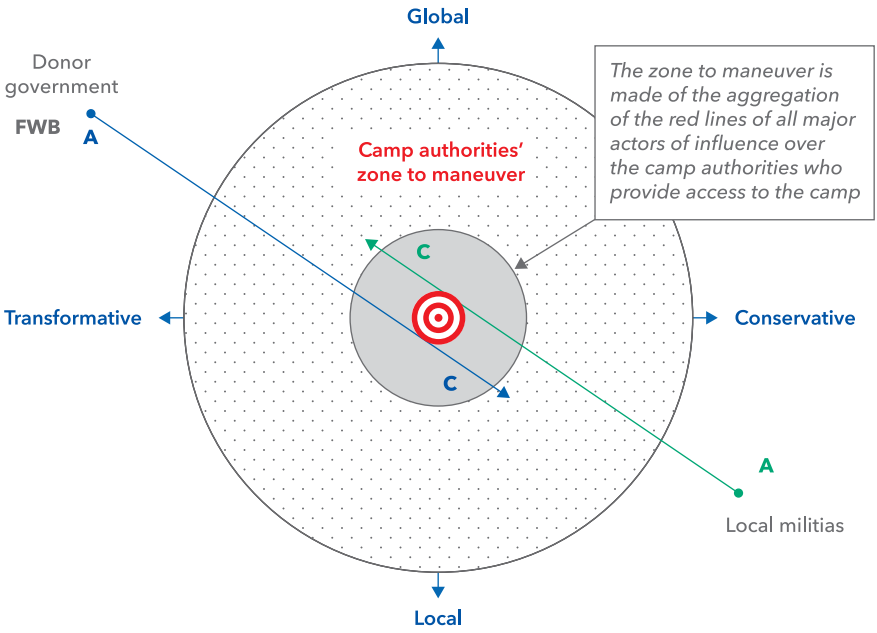
On the role of stakeholders
A final point in drawing scenarios should be made regarding the role and influence of stakeholders.

As explained earlier in this Section, the position of the counterpart in a negotiation is as much the product of its interests and motives as of its relationships with influential stakeholders (see the module on mapping networks of influence).

Taking that into account, one should acknowledge that the actual scenarios of a negotia-

tion are often a tributary of the objectives and tactics of other major stakeholders (i.e. their own ideal outcome (A') and their red lines of who may be amenable to a compromise but up to a point (i.e., their own red line (C)) in terms of their relationship with the counterpart. Hence, in our case, the camp authorities are not entirely free to set their red lines in view of the potential influence of armed militias providing the local guards. The same applies to FWB, which remains very much under the influence of its donor. 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.

These influences can be illustrated on a map as follows :



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 camp authorities regarding the payment of local guards by FWB, limiting the ability of the authorities of the camp to make compromises with FWB. Equally, donor governments may impose tough lines on the accountability of aid distribution that may hinder the capacity of FWB to agree on pragmatic solutions with the camp commander.

As described above, scenarios are built around ideal outcomes and red lines from a network of influencers. Ideal outcomes are the product of a principled approach to the negotiation that maximizes the benefit for the humanitarian mission of the organization; bottom lines are a tactical positioning of the negotiation team to determine the limits of the open dialogue; and red lines are the limits of the mandate in the case of the negotiator, and of a relationship in terms of stakeholders.

APPLICATION OF TOOLS AND METHODS

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.

This segment examines the case brought up in the previous module 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.

SITUATION 1

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 from leaving their residence in District A for almost a week by tribesmen following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows plans of HfA 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 remains open. Families of patient have been complaining about the lack of services in the hospital.

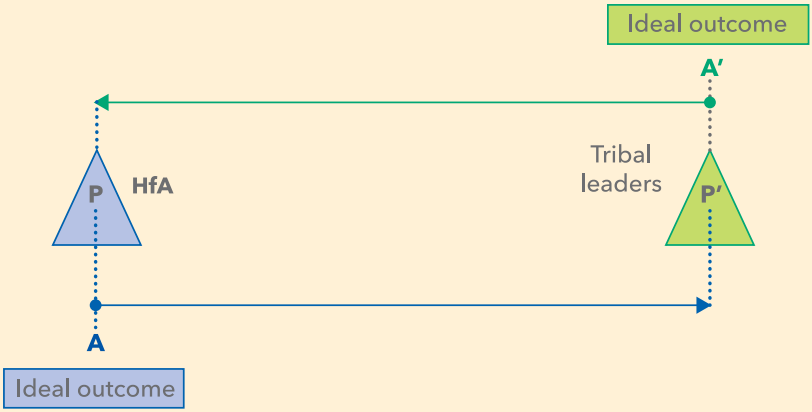
The tribal leaders have agreed to meet with HfA representatives to look for a practical solution. The government has refrained from intervening in what they see as a private labor dispute. The army and police have only a limited presence and control over the situation in District A and would not intervene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

As a result of the analysis of the previous module on identifying 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.

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 as the ideal outcome of the process according to their individual perspectives. These positions were identified in the previous modules.

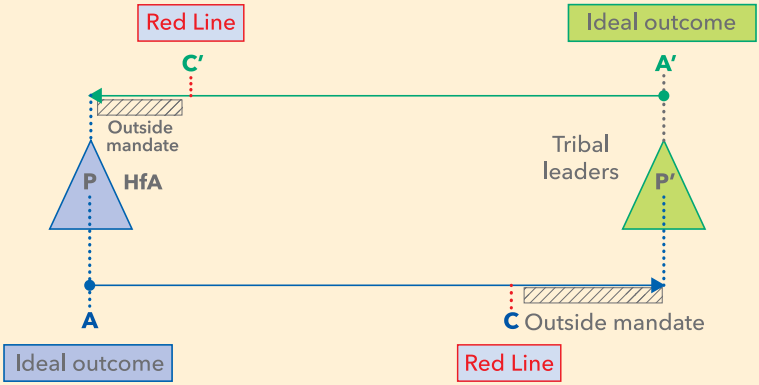


IDEAL OUTCOME OF HFA (A)	IDEAL OUTCOME OF TRIBAL LEADERS (A')
• HfA insists on the immediate release of all the HfA staff and their evacuation from District A. • Tribal leaders must guarantee the safety and well-being of HfA staff in the meantime. • HfA scales down its health activities in the region and hands over the hospital to a third party, including obligations towards the guards and their families. • Meanwhile, HfA undertakes consultation to rebuild trust with the community.	• Tribal leaders insist on keeping the hospital fully operational under HfA or equivalent. • HfA should maintain the employment of the security guards from the tribe. • Families of wounded and deceased guards should be properly compensated. • Retained staff will be released only when guarantees on the above are provided. • Meanwhile, emergency needs should be addressed by HfA.

STEP 2

Identify the red lines on both sides as a precondition for the negotiation to take place

The negotiation team should first consult with their mandator on the red lines of HfA regarding each of the issues on the table. Once these have been set, they should deduct the red lines of the counterpart on the same issues.



Identifying the red lines by sources (for the origins and scope of red lines, see Section **Orange**, Module on institutional policies:

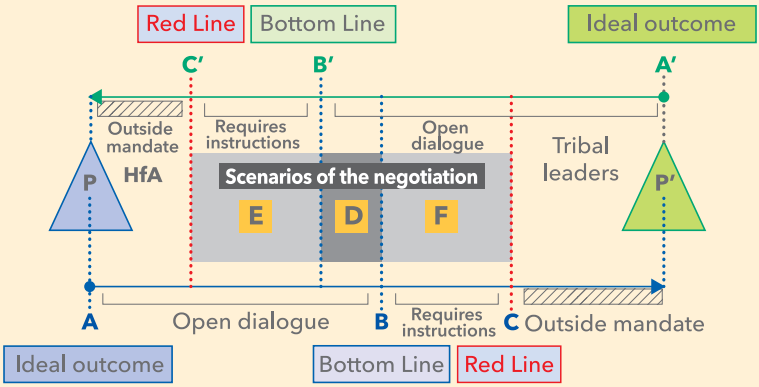
SOURCES OF RED LINES	RED LINES OF HFA (C)	RED LINES OF TRIBAL LEADERS (C')
Customary norms	Tribal leaders must respect the independence of HfA.	HfA must respect the role of local authorities
Legal norms	Tribal leaders must commit to the prompt release of staff	HfA must guarantee access to health care
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.

It will be easier and faster to identify HfA's red lines as part of the mandate of the negotiation team than the ones of the tribal leaders. The red lines of the counterpart tend to be expressed as a condition for the negotiation to start.

STEP 3

Identify the potential shared objectives as a space for dialogue

The next step pertains to identifying the material for a dialogue. This material has already been a topic of analysis in the previous modules as one analyzed the potential overlap in terms of values, rationale, and objectives between the two icebergs.



TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) **D**	DIVERGENT (TO AVOID IF POSSIBLE) **F** **E**
Value-based/ Political	• The welfare of the community is of concern to both sides, in particular in view of the rise of communicable disease. • Both sides appreciate the importance of evidence-based decision-making, ensuring objective policies in terms of community health. • Both sides also share concerns for the well-being of the families of wounded guards and of those killed on duty in recent years. • 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.	• The legitimacy of tribal leaders in the eyes of the community is not a primary concern to HfA. • 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. • Continued employment of the guards is not a core mission of HfA.

TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) **D**	DIVERGENT (TO AVOID IF POSSIBLE) **F** **E**
Professional	• The safety and security of staff is a common goal of both sides. • The announcement of the closure of the HfA hospital without notice and prior consultation was probably not the best way to proceed. • Greater consultation with the community and the tribal leaders is part of the solution. • It is important to restore the activities of the hospital and ensure the integrity of its staff and premises. • One needs to assess the rise of communicable disease in District A. • One needs to assess the vulnerability of families of injured guards and guards killed on duty in recent years. • HfA as a community-based employer should look into the impact of closing the hospital on the vulnerability of local staff. • It is important to de-escalate this situation and resume normal operations to mitigate reputational risks on both sides.	• 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. • Holding staff is a legitimate way of drawing attention from foreign leaders. • HfA is a charitable organization accountable to its foreign board and donors. • The presence and roles of local law enforcement and authorities vs. tribal leaders in this matter is problematic. • Tribal traditions should be the governing standard of labor relations between HfA and its local staff, and a measure of the liabilities of HfA towards the employment of the guards as well as the compensation of the families of injured or killed guards.

TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) **D**	DIVERGENT (TO AVOID IF POSSIBLE) **F** **E**
Technical	• Emergency medical needs should be addressed promptly, and staff should be allowed to return to work. • Tribesmen should withdraw from the perimeters of the residence so as to allow staff to go back to work when necessary. • There is no need to rush into a decision on the closure of the hospital. Further consultation should be undertaken. • Assessment of the vulnerabilities of staff to the potential redeployment of HfA assets should be undertaken. • HfA will seek greater support on communicable disease in the region.	• HfA cannot guarantee continued employment of local staff. • HfA cannot be seen as carrying out the responsibilities of the health authorities of District A. • Tribal leaders cannot accept the closure of the hospital. One should find a way to keep the hospital functional under HfA. • Tribal leaders are not the police force in District A. They cannot guarantee the full safety and security of staff. • Guards will not forfeit their right to full unemployment compensation. • Families of guards will not forfeit their right for compensation from HfA.

STEP 4

Identify the bottom line of the scope of the dialogue

The bottom line of the parties will be set to avoid dealing with divergent issues that necessarily increase the cost of the compromises, although some may have to be addressed, requiring the negotiators to go back to the mandator.

HfA negotiators should focus the discussion on:

a) safety and security of staff as a way to prepare for their release;
b) ensuring that the hospital can return to a normal function promptly;
c) a process to undertake a consultation on the health needs in District A;
d) sequencing the release of the staff with the above.

Avoid discussing other points as a bottom line until progress has taken place 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.

STEP 5

Preliminary script for the negotiator

The final step is to script the entry into the transaction process. As the negotiator from HfA prepares the first messages and encounters, the team may consider the model introduced in Section BLUE on preparing and managing the transaction stage of the process:

a) clarifying the terms of the transaction;

b) creating a conducive environment for the transaction; and

c) addressing the human elements of the transaction.

(See Section **Green**, module on Transactional)

In terms of content of the message, one may consider building on the Tier system, underlining:

Tier 1: Issues easily agreeable. A quick win for both sides.

Tier 2: Issues on which an agreement comes at an equivalent cost for the counterparts and the humanitarian organization.

Tier 3: Issues that are more complex to address and harder to solve. These will require a more in-depth process.

(See Section **Yellow**, module on the Analysis of Interests and Motives)

In our case, one may consider :

TIERS	MESSAGES
1. Easy to agree (find quick wins)	- We should agree to resume promptly the emergency services at the hospital. - It will require the release of HfA staff from the residence. - Tribesmen should stay away from the HfA residence. - It is important to keep the situation under control. - Therefore, it is important to keep this discussion confidential.
2. More demanding (direct the conversation)	- Provide security guarantees that HfA will be free to move and work at the hospital. - Discuss the other related issues when the hospital operations have resumed. - Establish a process for a consultation on health needs in District A.
3. Complex issues (postpone some issues)	- Find out the liabilities of employers in District A regarding compensation of staff and their families for injury and death. - Establish a clear role for HfA in terms of public health.

PRACTICE AND SIMULATIONS

This segment offers the opportunity to readers to exercise their skills in designing scenarios, drawing on the lessons from this segment as well as other segments. The same three cases of the past modules are used, requiring the readers to draw from the results of the exercises on an analysis of the position of the counterpart and of the humanitarian organization in order to complete the exercise in this segment.

CASE 1

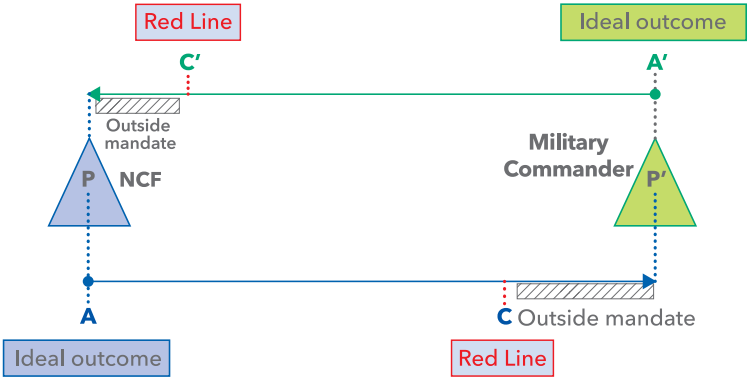
PROVIDING LITERACY MATERIAL FOR CHILDREN ENROLLED IN A MILITARY ACADEMY

At a regular meeting on access to areas affected by armed violence and conflict, the military commander of the District has requested the support of the National Children's Fund (NCF), a national NGO, to acquire educational material for unaccompanied children enrolled in a local military academy. Country A is at war with rebel groups and unaccompanied children aged 12-16 years old graduating from the academy are regularly sent to the battlefield as (unarmed) scouts observing and documenting the positions of the enemy. The literacy program is directed towards their capability to document military movements of rebel troops.

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 as the ideal outcome of the process according to their individual perspectives. These positions were identified in the previous modules.



IDEAL OUTCOME OF NCF (A)	IDEAL OUTCOME OF MILITARY COMMANDER (A')
•	•
•	•
•	•
•	•

STEP 2

Identify the red lines on both sides as a precondition for the negotiation to take place

The negotiation team should first consult with their mandator on the red line of NCF regarding each of the issues on the table. Once these have been set, they should deduct the red lines of the counterpart on the same issues.

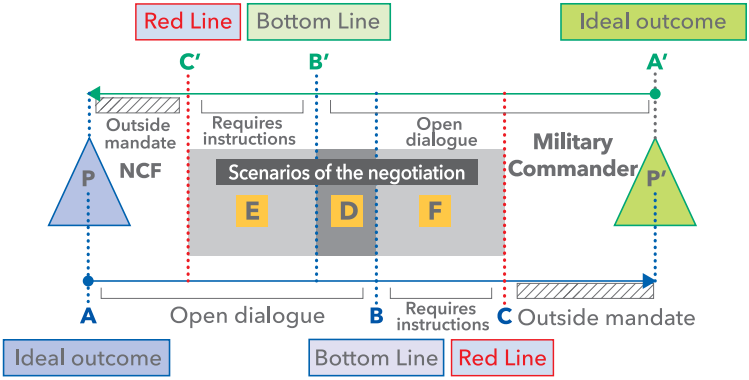
Identifying the red lines by sources:

SOURCES OF RED LINES	RED LINES OF NCF (C)	RED LINES OF THE MILITARY COMMANDER (C')
Customary norms		
Legal norms		
Institutional policies		
Professional standards		
Moral and ethical values		

STEP 3

Identify the potential shared objectives as a space for dialogue

The next step pertains to identifying the material for a dialogue. This material has already been a topic of analysis in the previous modules as one analyzed the potential overlap in terms of values, rationale, and objectives between the two icebergs.



TYPES OF NEGOTIA-TION	CONVERGENT (TO BUILD ON) **D**	DIVERGENT (TO AVOID IF POSSIBLE) **F** **E**
Value-based/ Political	•	•
	•	•
	•	•
	•	•
	•	•
Professional	•	•
	•	•
	•	•
	•	•
	•	•

TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) D	DIVERGENT (TO AVOID IF POSSIBLE) F E
Technical	•	•
	•	•
	•	•
	•	•
	•	•

STEP 4

Identify the bottom line of the dialogue

The bottom line of the parties will be set to avoid dealing with divergent issues that necessarily increase the cost of the compromises, although some may have to be addressed, requiring the negotiators to go back to the mandator.

NCF negotiators should focus the discussion on:

a) _____

b) _____

c) _____

d) _____

Avoid discussing other points as a bottom line until progress has taken place on the above. If the counterpart insists on discussing:

i) _____

ii) _____

iii) _____

the negotiation will need to consult with the mandator; these issues are not off the table but will require new instructions.

STEP 5

Preliminary script for the negotiator

The final step is to script the entry into the transaction process. In terms of content of the message, one may consider building on the Tier system, underlining:

Tier 1: Issues easily agreeable. A quick win for both sides.

Tier 2: Issues on which an agreement comes at an equivalent cost for the counterparts and the humanitarian organization.

Tier 3: Issues that are more complex to address and harder to solve. These will require a more in-depth process.

TIERS	MESSAGES
1. Easy to agree (find quick wins)	- - -
2. More demanding (direct the conversation)	- - -
3. Complex issues (postpone some issues)	- - -

CASE 2

ASSESSING THE NUMBER AND STATUS OF IDPS RECEIVING FWB FOOD RATIONS

Representatives of Food without Borders (FWB), an international NGO, are visiting a remote IDP camp of Country A under the control of an armed group to assess the number of beneficiaries of its food distribution program in the region. The data shows over 18,500 persons living in the camp receive regular FWB food rations, equally divided between genders.

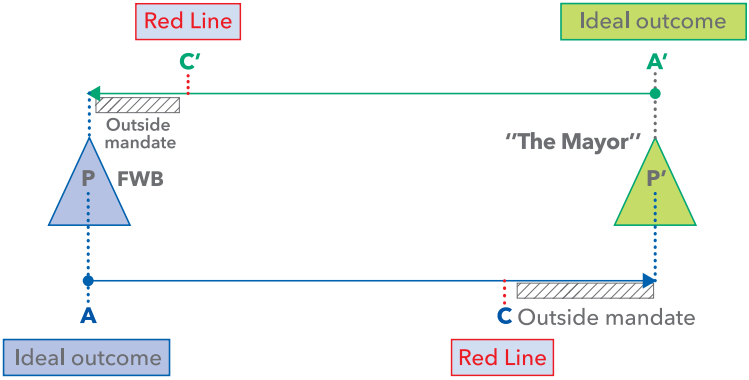
While visiting the IDP camp, FWB representatives observed the absence of any males aged between 12 years and 60 years old. Government military has argued that the males are forcibly recruited by listed terrorist groups and complained that parts of the FWB food rations are diverted by the armed groups to feed its combatants. FWB has mandated its representatives to step up the monitoring of the distribution of food rations by requesting the presence of FWB representatives during the distribution of food by the local contractor.

The camp does not seem to have any clear leadership. The pastor of the camp parish and the teacher of the school are too busy to meet with FWB representatives. An elderly man of the camp, nicknamed "The Mayor," meets with them in the community room. He disagrees with the proposal for greater monitoring, arguing that the distribution of food rations is an internal affair of the community. It takes place among women from each family and FWB must respect local customs. He otherwise explained that all the males of the community are currently harvesting crops in the surrounding fields.

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 as the ideal outcome of the process according to their individual perspectives. These positions were identified in the previous modules.



IDEAL OUTCOME OF FWB (A)	IDEAL OUTCOME OF THE "MAYOR" (A')
•	•
•	•
•	•
•	•

STEP 2

Identify the red lines on both sides as a precondition for the negotiation to take place

The negotiation team should first consult with their mandator on the red line of the FWB regarding each of the issues on the table. Once these have been set, they should deduct the red lines of the counterpart on the same issues.

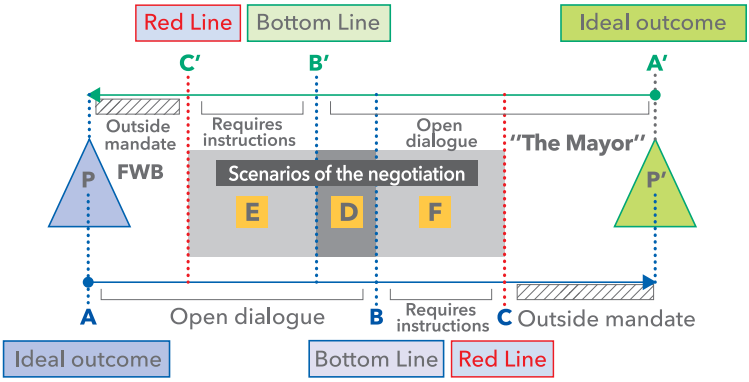
Identifying the red lines by sources:

SOURCES OF RED LINES	RED LINES OF FWB (C)	RED LINES OF THE "MAYOR" (C')
Customary norms		
Legal norms		
Institutional policies		
Professional standards		
Moral and ethical values		

STEP 3

Identify the potential shared objectives as a space for dialogue

The next step pertains to identifying the material for a dialogue. This material has already been a topic of analysis in the previous modules as one analyzed the potential overlap in terms of values, rationale, and objectives between the two icebergs.



TYPES OF NEGOTIA-TION	CONVERGENT (TO BUILD ON) **D**	DIVERGENT (TO AVOID IF POSSIBLE) **F** **E**
Value-based/ Political	•	•
	•	•
	•	•
	•	•
	•	•
Professional	•	•
	•	•
	•	•
	•	•
	•	•

TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) D	DIVERGENT (TO AVOID IF POSSIBLE) F E
Technical	•	•
	•	•
	•	•
	•	•
	•	•

STEP 4

Identify the bottom line of the dialogue

The bottom line of the parties will be set to avoid dealing with divergent issues that necessarily increase the cost of the compromises, although some may have to be addressed, requiring the negotiators to go back to the mandator.

FWB negotiators should focus the discussion on:

a) _____

b) _____

c) _____

d) _____

Avoid discussing other points as a bottom line until progress has taken place on the above. If the counterpart insists on discussing:

i) _____

ii) _____

iii) _____

the negotiation will need to consult with the mandator; these issues are not off the table but will require new instructions.

STEP 5

Preliminary script for the negotiator

The final step is to script the entry into the transaction process. In terms of content of the message, one may consider building on the Tier system, underlining:

Tier 1: Issues easily agreeable. A quick win for both sides.

Tier 2: Issues on which an agreement comes at an equivalent cost for the counterparts and the humanitarian organization.

Tier 3: Issues that are more complex to address and harder to solve. These will require a more in-depth process.

TIERS	MESSAGES
1. Easy to agree (find quick wins)	- - -
2. More demanding (direct the conversation)	- - -
3. Complex issues (postpone some issues)	- - -

CASE 3

IMC MEETS WITH THE VICE-PRESIDENT TO DISCUSS MODALITIES OF OPERATION

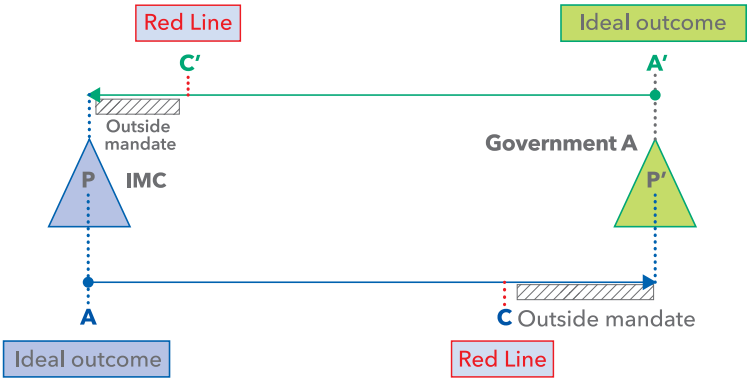
Representatives of the International Monitoring Committee (IMC), an international NGO mandated to monitor conditions of detention, are meeting with the Vice-President of Country A to discuss the modalities of IMC visits to prisons in Country A. The meeting takes place in the Presidium Palace, a heavily fortified government building. After walking for more than 45 minutes in long and dark alleys, the IMC representatives are invited to sit at a table in the middle of a very large room. On one side of the table, the Vice-President is joined by the Deputy-Minister of Foreign Affairs and a translator. On the other, the two representatives of IMC are invited to sit.

Without much introduction, the Vice-President launches into a monologue of about 90 minutes on the economic and social achievements of Country A under the doctrine of the ruling party. At the end of the speech, the Vice-President concludes by welcoming the IMC representatives to Country A and seeking their support in the development of the prison system. A group of photographers enters the room and they take a series of pictures of the two sides meeting. The meeting is adjourned without much input from the representatives of IMC.

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 as the ideal outcome of the process according to their individual perspectives. These positions were identified in the previous modules.



IDEAL OUTCOME OF IMC (A)	IDEAL OUTCOME OF THE GOVERNMENT A (A')
•	•
•	•
•	•
•	•

STEP 2

Identify the red lines on both sides as a precondition for the negotiation to take place

The negotiation team should first consult with their mandator on the red line of IMC regarding each of the issues on the table. Once these have been set, they should deduct the red lines of the counterpart on the same issues.

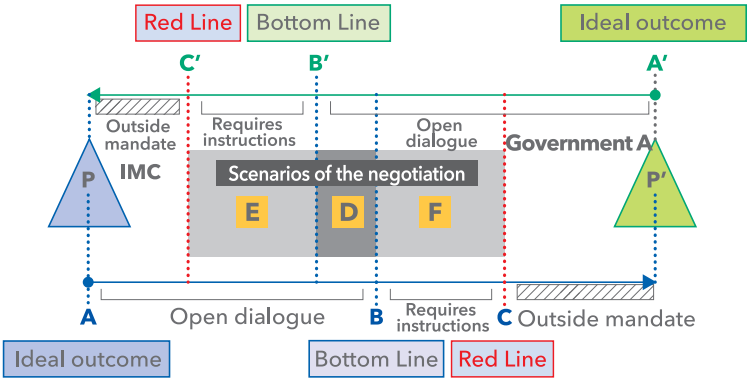
Identifying the red lines by sources:

SOURCES OF RED LINES	RED LINES OF IMC (C)	RED LINES OF GOVERNMENT A (C')
Customary norms		
Legal norms		
Institutional policies		
Professional standards		
Moral and ethical values		

STEP 3

Identify the potential shared objectives as a space for dialogue

The next step pertains to identifying the material for a dialogue. This material has already been a topic of analysis in the previous modules as one analyzed the potential overlap in terms of values, rationale, and objectives between the two icebergs.



TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) **D**	DIVERGENT (TO AVOID IF POSSIBLE) **F** **E**
Value-based/ Political	•	•
	•	•
	•	•
	•	•
	•	•
Professional	•	•
	•	•
	•	•
	•	•
	•	•

TYPES OF NEGOTIATION	CONVERGENT (TO BUILD ON) D	DIVERGENT (TO AVOID IF POSSIBLE) F E
Technical	•	•
	•	•
	•	•
	•	•
	•	•

STEP 4

Identify the bottom line of the dialogue

The bottom line of the parties will be set to avoid dealing with divergent issues that necessarily increase the cost of the compromises, although some may have to be addressed, requiring the negotiators to go back to the mandator.

IMC negotiators should focus the discussion on :

a) _____

b) _____

c) _____

d) _____

Avoid discussing other points as a bottom line until progress has taken place on the above. If the counterpart insists on discussing:

i) _____

ii) _____

iii) _____

the negotiation will need to consult with the mandator; these issues are not off the table but will require new instructions.

STEP 5

Preliminary script for the negotiator

The final step is to script the entry into the transaction process. In terms of content of the message, one may consider building on the Tier system, underlining:

Tier 1: Issues easily agreeable. A quick win for both sides.

Tier 2: Issues on which an agreement comes at an equivalent cost for the counterparts and the humanitarian organization.

Tier 3: Issues that are more complex to address and harder to solve. These will require a more in-depth process.

TIERS	MESSAGES
1. Easy to agree (find quick wins)	- - -
2. More demanding (direct the conversation)	- - -
3. Complex issues (postpone some issues)	- - -

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions of negotiation teams on the particular tool and facilitate reflections on the efforts of elaborating a cogent position at the negotiation table.

Points for professional deliberations

1. How prepared should a negotiator be before opening a dialogue with the counterpart?
2. How can one deduct the red lines and bottom lines of the counterpart?
3. To what extent are moral and ethical norms of importance in a negotiation? Should one stick to institutional policies? To what extent should one personalize the dialogue with the counterpart?
4. Should humanitarian principles be highlighted from the outset of the dialogue? What interests of the negotiation process would it serve if these are not shared? Are they actually red lines or common objectives?

3 | The negotiator's mandator

Role and tasks of the negotiator's mandator

OBJECTIVE OF THIS SECTION

The objective of this Section is to provide a set of practical tools and methods to frame a humanitarian negotiation process within the mandate of the negotiator. This framework is articulated around the role of the mandator in this process who issues the mandate of the negotiator and monitors its implementation. The negotiator's mandate is informed by the mission and strategic objectives of the organization without which the negotiation process is mostly ungoverned. The mandate is not designed to dictate the specific outcomes of the negotiation but to set the space for a dialogue with the parties, providing sufficient autonomy to the negotiator in adapting the organization's goals and methods to the reality of the field. The mandate should stipulate therefore clear red lines to indicate to the negotiator and the other parties the limits of the scope of the negotiation as informed by the institutional principles and policies of the organization. The role of the mandator is to balance, on the one hand, the operational interest of the organization in gaining access to populations in need and, on the other, the importance of regulating these operations in line with the core institutional principles and policies of the organization.

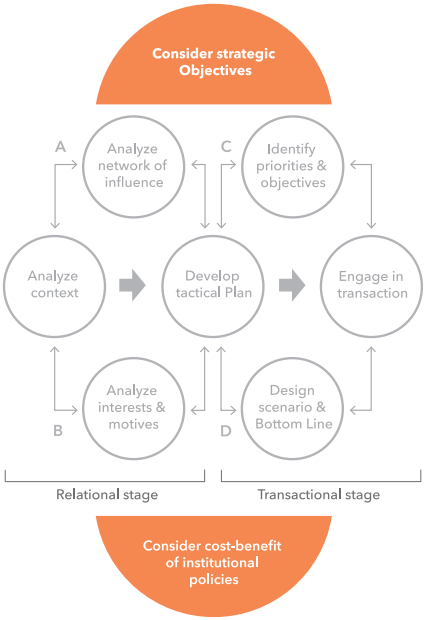


Figure 12: The role of the mandator is to provide legitimacy to the negotiation process while ensure the compliance to the regulations and principles of the organization

To help position the role of the mandator, one needs to clarify the timeframe of a negotiation process and the point of entry of the mandator.

A humanitarian negotiation process can be articulated in five distinct phase :

Phase 1 :
Surveying humanitarian needs

Humanitarian operations take place in complex environments that are surveyed on an ongoing basis by teams of humanitarian professionals. Once humanitarian needs falling within the mission of the organization have been identified, the organization responds by planning the delivery of aid and mobilizing the resources necessary to undertake an operation. As part of the planning process, the organization examines the opportunities and constraints of operating in a given context, in particular the authorization or consent required from the entities in control of the access to the population affected by the humanitarian crisis.

Phase 2 :
Setting up and granting a mandate to negotiate

A mandate is given to the representatives of the organization on site to plan a negotiation process with the authorities or entities in control of the access to the population in need. This mandate is derived from the mission of the organization and framed within its institutional goals, strategies and policies. The mandate is often the subject of an internal negotiation process as diverging views and perspectives between field and HQ staff on operational priorities, objectives and counterpart's expectations may complicate the drafting of an authoritative mandate.

Phase 3 :
Identifying the counterpart

As part of this process, the negotiator will be responsible for identifying the right counterparts to run this negotiation with whom he/she will be mandated to establish a proper relationship as well as seeking their consent on the proposed operation.

Phase 4 :
Reviewing negotiation plans

As part of the planning process, the negotiation support team composed of colleagues and peer negotiators reviews with the negotiator the analysis of the context, the interests and motives of the parties and the networks of influence. It assists in the elaboration of the objectives of the negotiation and the integration of the red lines into the scenarios and tactics of the organization.

Phase 5 :
Engaging in a transaction

Ultimately, the negotiator engages in the transaction with the counterpart and seeks an agreement on the terms of the operation.

There are therefore three key actors involved in a humanitarian negotiation process :

1. **The mandator**

2. **The negotiator**

3. **The negotiator's support team**

The mandator provides the authority to represent the organization to the negotiator. Usually part of the operational hierarchy of the organization, he/she is responsible for ensuring that the proposed terms of the agreement remain within the limitations set

by institutional policies of the organization (e.g. humanitarian principles, "do no harm" etc.). (See next modules on institutional policies.) Institutional policies are designed to frame the activities of the organization in legal, professional and ethical terms. The mandate to negotiate given to the negotiator is therefore not open. It is set within limitations that preserve the integrity and mission of the organization. The role of the mandator and the sources of the institutional policies are reviewed in this **Orange** Section.

The negotiator is the representative of the organization in the negotiation process and may agree with the parties in control of the affected populations on the terms of the presence, access and programs of the organization. The main tasks of the negotiator are reviewed in the **Green** Section of this Manual.

The negotiation support team is working with the negotiator and the mandator 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 main tasks of the negotiation support team are reviewed in the **Yellow** Section of this Manual.

CONCEPTUAL DESCRIPTION

The purpose of this module is to analyze the strategic objectives and mission of the organization as they inform the elaboration of the mandate of the negotiator and help frame the negotiation. This module aims to provide the mandator as well as the negotiator with key tools to design and interpret a mandate in a negotiation process.

A mandate can be explicit in nature, providing clear objectives and limitations to a negotiator, or implicit as part of his/her job responsibilities and operational plans. In both cases, the strategic objectives and mission of the organization give a point of departure for the framing of the negotiation.

The mandate of a negotiator is composed of:

A. General terms involving a clear understanding of the mission of the organization of the strategic objectives of the organization;

B. Specific terms involving specific objectives to respond to the needs arising from a particular theme or context; and,

C. 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 a particular operation.

A. General terms of the mandate: Emphasizing the mission, values and strategic objectives of the organization

Most practitioners argue that the strength of a negotiator at a negotiation table is very much related to the clarity of his/her mandate, in particular in terms of the mission and strategic objectives of the organization they represent. Clearer the mandate, 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 in a particular context or around a particular theme, the negotiator will be unable to explain the rationale under which the counterpart should make compromises. The mandate is therefore a critical tool for the negotiator to build a cogent tactic in the negotiation process and explain the mission and strategic objectives of the organization.

This understanding implies a translation of the core values of the organization into the strategic objectives of the organization and the identification of a set of terms for the negotiator as objectives for the negotiation. This determination is at times omitted assuming that all the professionals in the field know somehow the mission of the organization. Recent interviews have shown the lack of fluency among many humanitarian professionals in explaining the core mission and values of their organization and why the latter is planning to operate in a country. The responsibility of clarifying the mandate of the negotiator is with the operational hierarchy of the organization using simple but powerful test to ensure that all colleagues share the same appreciation of the core elements of the mandate. Key questions to discuss are evidently connected to the previous analysis of the position of the organization. Drawing from the mission statement of our organization, what are the core values at play in this negotiation? WHO are we? WHY are we planning to operate in this context?

Taking for example the drafting of a mandate of a Save the Children Fund (SCF) negotiator seeking access to vulnerable children in an IDP camp in Country A, the mandator (in this case from SCF hierarchy) must consider the mission and strategic objectives of SCF (e.g. outlined on SCF international website) in drawing the mandate of the negotiator in the context of a negotiation (here negotiating access to IDPs in Country A). This mandate will include general terms pertaining to the strategic objectives of SCF in Country A, as well as specific objectives pertaining to the negotiation of access to the IDPs.

GENERAL TERMS OF THE MANDATE

TERMS OF THE MISSION OF SAVE THE CHILDREN	STRATEGIC OBJECTIVES IN COUNTRY A	GENERAL TERMS OF THE MANDATE OF THE NEGOTIATOR
"Our vision: *A world in which every child attains the right to survival, protection, development and participation."*	**a)** Ensure the universality of the rights of the child in Country A. **b)** Ensure the survival, protection, development and participation of every child in Country A.	**1.** Negotiation process must entail advocacy initiatives to promote the rights of the child with the parties. **2.** The object of the negotiation should integrate all forms of vulnerabilities of children. It should not be limited to the strict immediate relief response. **3.** Negotiators should make sure that children are able to participate in the prioritization, design, implementation and evaluation of SCF programs.
"Our mission: *To inspire breakthroughs in the way the world treats children and to achieve immediate and lasting change in their lives."*	**c)** Undertake meaningful programs to impact upon the life of children. This impact should be immediate and sustained over the long term. **d)** Demonstrate SCF's leadership in the development of new approaches having a concrete and immediate impact on the lives of children in Country A.	**4.** SCF programs should be impactful and sustainable over time, demonstrating significant changes in the life and environment of children in Country A. **5.** A key goal of the negotiation process is to demonstrate to counterparts and other stakeholders SCF's innovative capacity and leadership in addressing the needs of children in Country A.

B. Specific terms of the mandate: Responding to the needs arising in a particular context

While the general terms of the mandate are applicable to a number of situations, the mandate in itself is triggered by the identification of humanitarian needs arising in a specific context. The response to these needs is the object of the humanitarian negotiation. These specific terms will provide a framework to the elaboration of specific objectives of the negotiation (P) discussed in the Section **Yellow** under the Identification of priorities and specific objectives at the negotiation table.

Building on the example above, we assume that there has been a large displacement of populations, mostly women and children, due to the conflict in Country A. The health and nutritional status of the population is a topic of increasing concerns. There are also allegations of abuses against children and forced recruitment by armed groups among IDPs.

SPECIFIC TERMS OF THE MANDATE

TRIGGERS OF THE MANDATE IN COUNTRY A	SPECIFIC TERMS OF THE MANDATE OF THE NEGOTIATOR
- Forced displacements of population composed mostly of women and children. - Heath and nutritional vulnerabilities are increasing within the IDP population due to the lack of infrastructure and instability. - Alleged abuses of women and children as the most vulnerable groups in this population. - Instances of forced recruitment of children by the armed groups.	The negotiator is mandated to: **1.** Engage with public authorities on preventing forced displacements and ensuring the provision of essential services in terms of health, shelter and access to food with the support of SCF. **2.** Design programs with the camp authorities to provide immediate assistance to the population in need, especially women and children, and negotiate safe access of this population to SCF assistance on location. **3.** Inquire about the alleged abuses of women and children and undertake an assessment of their vulnerabilities. Engage in a dialogue with the authorities of the IDP camp as well as communities on their responsibility to prevent such abuses. **4.** Assess the prevalence of recruitment of children in the IDP population and engage in a dialogue with representatives of militias to prevent further abuses and demobilize children affected by this practice.

The two previous tables provide a model of drafting a mandate for the negotiator operating on the frontline. This mandate will need to be further informed by the limitations emanating from the institutional policies and legal obligations of the organization discussed in the next module.

C. A delegation of authority to the negotiator to represent the organization in the negotiation

The third and most important aspect of the mandate is the delegation of authority 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. Without this delegation, the negotiator is unable to undertake the negotiation. One should therefore distinguish a mandate to represent an organization from a mandate to negotiate for an organization.

- The **mandate of an agent** is a set of instructions given to a staff member to represent the organization in a relationship or a transaction with a third party. The instructions include a detailed offer of the organization to transmit to the third party. The agent does not have the possibility of changing the terms of the offer or discuss other terms. He/she is able only to transmit or receive information about a possible transaction.

- The **mandate of a negotiator** is an authority to engage in a dialogue on the terms of an operation and explore possibilities of an agreement with a third party within certain limitations stipulated in the mandate. Once a common understanding with the third party has been reached, the negotiator is able to agree to these terms and commit the organization to implement this agreement.

Clearer the mandate of the negotiator is, more autonomy may be granted to the negotiator to find practical solutions and build a trustful relationship with the parties.

It does imply that the negotiator benefits from a certain autonomy from the mandator. The negotiator not only represents the voice of the hierarchy, he/she is also an intermediary between the organization and the counterpart mandated to explore opportunities and seek an agreeable solution for both sides to a specific issue. This agreement must take place within the red lines established by the mandator limiting the scope of the negotiation. In such case, the negotiator can represent the organization in a formal sense and engage it with the counterpart. Conversely, if the parties are unable to find a common understanding, the positions taken by the negotiators seeking a solution are not attributable to the organization. The function of the negotiator is to look for practical solutions, not state policies of an organization.

Is this distinction important? Some organizations may be inclined to avoid making a distinction between the functions of a representative/agent 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) and without requiring that he/she reports to their hierarchy on the details of these solutions that may contravene institutional policies.

This "don't ask, don't tell" policy has been a common practice of humanitarian organizations with limited capacity to reflect and strategize on their presence and access to populations in complex environments. It contributes to maintaining the reputation of such organizations as principled humanitarian actors, while giving significant flexibility to

their operators in the field to reach pragmatic solutions with counterparts under the cloak of confidentiality. Despite being pragmatic, this flexibility and ambivalence is also fraught with significant risks for the integrity and reputation of these organizations especially in an interconnected world. As the competition among organizations also grows, agents of humanitarian organizations are tempted to make compromises that would otherwise have been excluded through explicit red lines of clearly defined mandates. One has been able to witness that organizations that are the most equivocal regarding their negotiation strategies at the field level have also been the most exposed to operational risks in terms of abuses and security incidents. For the staff concerned, such ambivalence also comes with significant reputational and ethical risks. As long as negotiations are successful and operations save lives, few will ask for the details of the compromises required by the parties. Once a negotiation or an operation turn sour, attention is driven towards the lack of authority of the staff to make unorthodox arrangements. Individual operators can easily become the scapegoats of otherwise condoned institutional practices.

Regulating negotiation processes through proper mandates and ensuring a minimum of internal transparency on the compromises allowed at the field level may at first put into questions the interpretation of some of the humanitarian principles and result in greater risk avoidance at the field level. On the long run, it will probably ensure greater cohesion in the negotiation standing and professional reputation of organizations operating on the frontlines.

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APPLICATION OF TOOLS AND METHODS

This segment presents a set of practical steps to develop and interpret the mandate of a negotiator.

There are three steps elaborating a mandate, being 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 timing of the mandate

At the point of departure, the mandate must indicate the location, object and timing 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 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.

SITUATION 1

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 from leaving their residence in District A for almost a week by tribesmen following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows plans of HfA 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 is 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 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 A.

For now, the hospital is hardly 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 is a private labor dispute. The army and police have only a limited presence and control over the situation in A and would not intervene without the support of the tribal chiefs.

Health for all (HfA) 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 a HfA experienced negotiators to engage in this delicate process.

In such situation, the mandate will pertain to :

- The negotiation will take place with all the relevant parties.
- Aiming for the release of its staff, the reopening of the HfA surgical hospital as well as the orientation of its health activities in the region.
- This mandate is valid for the next six months. It can be renewed as necessary.

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 this negotiation.

In our case, HfA may decide to :

- Appoint the head of the regional office as lead negotiator with the tribal leader.
- The person will be released from its other administrative function for the duration of the negotiation process.
- She will be accompanied by a small team of advisors and peer reviewers;
- She will benefit from 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 the HfA as well as the professional standards, assess in the module on Specific Objectives of the Yellow Section.

GENERAL TERMS OF THE MANDATE

TERMS OF THE MISSION OF HFA	STRATEGIC OBJECTIVES IN DISTRICT A	GENERAL TERMS OF THE MANDATE OF THE NEGOTIATOR
- HfA is a humanitarian organization. It operates under a set of principles (neutrality, impartiality, proximity, etc.). - It aims to ensure an equitable access to health care to ALL, with a special attention to the most vulnerable. It aims to complement existing services, public and private. - It is an ethical organization committed to respect medical ethics and privacy of patients. It is bound by the human rights of patients. - It is transparent, well managed and diligent employer keen to maintain good relationship with the people and communities it serves. - While it has limited resources, it strives to do its best to ensure the continuity of access to health as long as there are needs falling within its mandate.	- 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. - HfA can provide health services at the condition that the security of its staff, premises and operations in guaranteed. - Security guarantees are the product of a trustful relationship with all the parties concerned. It also implies that HfA maintains good standing with the community, particularly dealing with patient and the local staff of the hospital. - It is vital that HfA finds a compromise with tribal leaders as this situation is likely to impact on the standing of the organization in other parts of the country.	**1)** The negotiator is mandated to find an agreement on the safe presence and access of HfA in District A. **2)** While it may have to assume certain risks, it is important that HfA attempts to restore essential services of the hospital in this context. **3)** It is critical that HfA is presented as an organization that is close to the community and aware of its responsibilities in terms of health care as well as an employer.

Specific terms of the mandate : Responding to the needs arising in District A

The mandate is triggered by the restrictions imposed on the movement of the staff by the tribal leaders and the untimely announcement of the closure of the surgical hospital. These specific terms will provide a framework to the elaboration of specific objectives of the negotiation (P) discussed in the Section Yellow under the identification of priorities and specific objectives at the negotiation table.

SPECIFIC TERMS OF THE MANDATE

TRIGGERS OF THE MANDATE IN COUNTRY A	SPECIFIC TERMS OF THE MANDATE OF THE NEGOTIATOR
- 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.	**1.** HfA should insist on the prompt release of all the HfA staff. **2.** Tribal leaders must guarantee the safety and well-being of HfA staff, in the meantime. **3.** HfA will want to scale down its surgical activities in the region and hand over the hospital to a third party, including obligations towards the guards and their family. **4.** It may have to reschedule these attempts as to allow proper consultation and the designation of a third party. **5.** Meanwhile, HfA should undertake consultation to rebuild trust with the community.

STEP 4

Set the terms of internal reporting and external communication

Negotiators must receive clear instructions on the expected format, timing and content of the reporting mechanism towards their mandator and/or operational hierarchy regarding the negotiation process. It 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 Yellow) as well as the relevant information on the context analysis and the proposed tactics of the negotiation.

Regarding external communication, a critical point will be to ensure the confidentiality of the negotiation process. 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 negotiation team with resources in terms public communication. It is vital that the lead negotiator remains in control of the communication on the negotiation process, even coming from HQ, as such communication may have severe consequences on the trust of the parties.

In our case, HfA may decide:

- To instruct the negotiator and negotiation team to report on a weekly/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 communication must be cleared by the negotiation team.

PRACTICE AND SIMULATION

For practice and simulation on the elaboration of the mandate, please refer to the exercise of the modules on “Identification of priorities and objectives” and “Design of scenarios and bottom lines” in Section **Yellow**.

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the development and interpretation of a negotiation mandate.

Points for professional deliberations

1. Should a humanitarian negotiation always be governed by a mandate? If so why? What is the cost or benefit of negotiating without a clear mandate?
2. Who should be issuing such mandate in your organization? How the mandator and negotiator be connected? How far should they be separated?
3. What is the difference between being an agent of an organization, and a negotiator for an organization? What such difference implies in terms of strategies and tactics?
4. How can one ensure the autonomy of the negotiator as to be able to explore opportunities and build trust?
5. How should one deal with the communication around a negotiation process in this interconnected world? How to address the need of the organization to communicate, while maintaining the confidentiality of the relationship between the negotiators and their counterpart?
6. What are the characteristics of a good negotiator? How should they be selected?
7. What are the characteristics of a good mandator?

CONCEPTUAL DESCRIPTION

The purpose of this module is to analyze the potential cost and benefit of institutional policies as the platform for identifying the most appropriate compromises and setting up the red lines of the negotiation process.

As discussed earlier, red lines are a critical component of any negotiation mandate and plan. It sets the limits under which the negotiator is allowed or not to discuss the terms of an agreement. It also exemplifies some of the hard lines of an organization in terms of identity and values. Red lines are the product of institutional policies even though they may be drawn from an external source in terms of norm (e.g. legal norms, humanitarian principles, professional standards, moral values, etc.). One can therefore list these red lines based on the relevant institutional policies and normative sources.

Institutional policies that underpin these red lines also come with a scale of appreciation. Some of them can be used to engage on discussions with the counterpart to identify potential areas of compromises to be leveraged in return of compromises on the position of the counterpart. The objective of this module is to clarify the sources of red lines and how institutional policies can be used in a negotiation process.

On the Origins of Red Lines

As mentioned in the module on the Design of scenarios, negotiation tactics are built around ideal outcomes, bottom lines and red lines. Ideal outcomes are the product of a principled approach to the negotiation that maximize the benefit for the humanitarian mission of the organization; bottom lines are a tactical positioning of the negotiation team to determine the limits of the open dialogue, and red lines are the limits of the mandate, i.e. beyond which negotiators are unable to agree on the terms of an operation.

As far as red lines are concerned, there are various sources of limitations involved:

1. Legal red lines

2. Institutional red lines

3. Professional red lines

4. Moral or ethical red lines

A. Legal Red Lines

Humanitarian negotiation always takes place within a legal order, although the implementation of the legal rules may be at times unpredictable or chaotic due to the conflict environment. The agreement of the parties is subject to legal limitations under the jurisdiction of the country where these negotiations occur and/or will be implemented.

Without entering into too many legal considerations, here are a number of legal red lines negotiators should be aware of as they consider options:

Customary norms

Customary norms, or community norms, are legal red lines that have to be respected by individuals and social actors operating in a given community. These norms are customary as their value 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 force of law within the community.

For example:

Example 1

Community norms restricting the delivery of assistance

"Food Without Border" (FWB) has received a consignment of MRE (Meals Ready-to-Eat) from a multinational military contingent to distribute to IDPs in Country A. The IDP population in the camp is from the Muslims minority in Country A. FWB notes that the MRE coming from Europe contains pork. While there is no legal restriction in Country A prohibiting the importation of pork, the distribution and consumption of pork within the IDP community are prohibited. As a result, this option is not amenable to the discussion under customary restrictions.

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 law 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 the customary or religious order (e.g. Sharia Law) and have been 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 immunity is specified in national laws or legally binding agreements (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 has otherwise agreed to respect its provision.

Example 2

Food Without Border draws on international law to request access to refugee populations hosted by Country A

Food Without Border (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 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. It further insists that humanitarian action be exempted of any taxation by local authorities on the import of food rations. It argues that these taxes contravene to the fiscal immunity of both the UN agency that contracted out FWB as well as 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, it applies respectively only to the UNHCR and the government donor, and not 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 to be 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. These legal norms have been crafted by governments. It rarely favors humanitarian organizations at the cost of government freedom to apply national security norms. Yet, the humanitarian negotiators 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.

Example 3

The Governor of District A seeking 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) fee of USD 500 per truck is required to allow the convoy to enter into the camp as a security fee. This fee is payable cash to the 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 the access to the camp; and,
4. A local security officer of the Governor requires the name and address of the female local staff of FWB active in the District. Information circulates that members of the security force regularly harass local female staff of INGOs in exchange of allowing them to work for the INGOs.

FWB representatives who have been briefed on the legal obligations of FWB in Country A disputes these restrictions claiming that:

- 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;
- The contract with the foreign donor subjects FWB to the laws of the donor government. These laws require a proper 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;

- The role of police officers under the law of Country A is to ensure law and order. Provide 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.
- 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 address 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 to :

- Know about the legal restrictions in force in the context;
- See which of these legal restrictions the government is actually enforcing (which ones are active red lines, which ones are more rhetorical);
- 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;
- 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,
- In any case, negotiators should 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. Some of these rules may impose restrictions that are

in conflict with some of their values and policies which prevent the negotiators to reach 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 the government may agree to exempt the organization from the rule. The fact that another organization is ready to comply with the demand at the cost of the legitimacy and legality of the arrangement is not a motive to violate one's rules.

B. Institutional red lines

Institutional norms constitute a significant set 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 several types of institutional red lines : humanitarian principles and other institutional red lines.

Each of these institutional principles and norms entails specific red lines as part of the mandate of the negotiator or elaborated in the course of dialogue with the mandator. One should note 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, or delegate the possibility to the negotiation team to adapt the policies to the situation depending on the cost/ benefit of the policy. Hence, in a case of immediate famine, negotiators may allow/ opt to go

below institutional red lines as to avoid suspending a life-saving programs and mitigate the costs of the decision.

1. Humanitarian principles as institutional red lines

Humanitarian principles constitute an important source of institutional red lines, although their interpretations may 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 protect the life and dignity of affected individuals or populations. Further away the object of the negotiation from the principle of humanity, more likely it will be affected by the institutional "red line" depending on the organization's interpretation of the principle of humanity. Some organization may have a narrow vision of their humanitarian mission limiting the object of the negotiation to life-saving assistance, others may include a larger series of life-enhancing and right-promoting objectives (e.g. education programs, income generation, preservation of the environment, etc.) as an intrinsic part of their humanitarian vision. It implies that negotiators from different organizations may have distinct red lines pertaining to the scope of the negotiation, some happy to entertain a large scope of options, other 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 may indeed take sides in favor of victims of

forced displacement, children recruited by an armed group or other vulnerable groups targeted by a policy of the parties to the conflict. The mission of humanitarian organization is to take the side of civilians affected by the conflict. This neutral humanitarian perception may be difficult to maintain in situations where one of the main goals of a party to the conflict is to take aim at the life and dignity of a segment of the population (e.g. discriminatory policies, ethnic cleansing, genocide, etc.).

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. in besieged areas). Should the principle of impartiality be applied only to those the organization is granted access to, at the cost of those most in need whose access is prohibited? Should organization refrain from assisting the former until it can secure access to the latter (e.g. in a nearby besieged area)? Are there forms of discrimination in the delivery of assistance that are more acceptable/ objectionable than others in times of emergency or in intense political environments (age, gender, ethnicity, religion, security status (e.g. family of foreign fighters)) or is the only discrimination allowed is based on lesser needs? Where should the red line be?

Independence

The principle of independence is among the most debated aspects of humanitarian programming. It entails the ability of organizations to draw policies and take decisions based on their own values, norms and methods, i.e. free from undue external influences, particularly from

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 policy decisions are made within transparent internal processes and serve primarily the mission of the organization.

However, to be put in absolute terms, the principle of independence suggests that the other humanitarian principles mentioned above would be in their pristine state, i.e. would have been developed free of any external political influence in the first place. Humanitarian principles are, by themselves, the product of a social and political culture of Cold War's Europe in the mid 1960s, which carries over a number of assumptions about the central role of governments, a reverence for national sovereignty enshrined in positive international law, a suspicion towards the role of communities and the rights of individuals in the humanitarian response, a narrow perspective on the geopolitics of international relations including an aversion for the contribution of so-called for-profit corporate actors, etc. 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 independence of organizations with their financial autonomy being funded by government donors vs. charitable donations, or to certain distribution formulas that balance the potential influence of donors. Other will see in the composition of the governance of the organization as a major source of undue influence. Finally, other see undue influence in the cultural, religious and ethnic makeup of the staff of the organization.

As far as the independent standing of humanitarian negotiators, the demonstration of independence is (fortunately)

more straightforward and pertains first and foremost to the identity of the humanitarian professionals at the negotiation table, being a national of the country or a foreign national, and if so from which country. Diversity in the negotiation team can be an important support to ensure that such independence is recognized by the counterpart. In all cases, the independence of the organization should be judged in the eyes of the counterpart. This perception of independence further focuses not so much on the origins of the funding or values and principles of the organization, but the ability of the negotiator to explain the rationale of his/her positions at the negotiation table in line with the core values of the organization.

2. 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 each individual red line framing the options for the negotiation team and informing the design of the scenarios.

These may include:

- "Do no harm" policies that require due diligence in preventing harm towards 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. requirement to employ only licensed physicians);
- Financial protocols and accountability mechanisms (e.g. requirement 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, etc.

While some of these institutional red lines them (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 tend to evolve over time depending on the expectations of the donor, host government, beneficiaries and the public in terms of professional behaviors.

To help situate institutional red lines in a context, one may consider the following example :

Example 1

The Governor of District A is keen to ensure the role and control of his government in the distribution of relief to refugees

In the same case mentioned above, the head of the Office of the Governor informed FWB representatives that:

1. 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 towards the welfare of refugees.
2. The Governor insists on selecting the segment of the population most in need in the camp based on the information available to the government.
3. Daily laborers that 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.
4. 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.
5. At the end of the day, 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 life-saving assistance, the negotiation team is considering its options to ensure that the assistance will be delivered to the camp in time:

- They may decide to allow the Governor to make a speech but take measures to dissociate the delivery of assistance from the government considering the fact that most of the camp dwellers belong from families of rebels;

- They will not allow the selection of the recipients of assistance by the Governor unless FWB can also select its own recipients.
- Daily laborers will need to be paid in cash directly by FWB, eventually in presence of a staff of the Governor's Office;
- Considering that guards in the camp are always equipped with sticks, FWB will probably need to close its eyes on the use of such method to keep order during the delivery of assistance. It will look for ways to limit disorderly behaviour during the counting of population. FWB will actively seek alternative models of crowd control;
- In no ways will FWB staff participate in a private party where women and girls from the camp will be subject to sexual harassment or prostitution.

C. Professional red lines

There may be other professional restrictions which 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 pertains 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 services, etc.). A professional norm is directed towards demonstrating the rigor of the professional staff and the delivery of services. It may include:

- Expected methods of assessing needs and delivery 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:

- 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 with 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, etc.

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. Evidently, these are context-specific as well. There may be situations where the local rules of decency or politeness may contravene to 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 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. A party intending to jeopardize a negotiation will likely communicate its intent early through gestures of professional disrespect 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, silence at 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 crisis in the negotiation process or growing threat toward the negotiation team. The same expectations apply to the behavior of the humanitarian negotiator which can be easily misread. The professional standing, attire and appropriate behavior in the context are important means to ensure that negotiation process remain on track at all times despite the prevalence of difficult issues, tensions or unstable interlocutors.

D. 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 that have all a personal dimension which makes them difficult to manage or take a distance from, 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 quarter;
- A negotiator may be asked to join a religious ceremony of a different belief or to profess a different belief;
- A negotiator may be asked to take part to a cultural event that goes against his/her belief (e.g. eating meat for a strict vegetarian) during the negotiation process, etc.

There are numerous situations that can become major sources of discomfort which may be intended or not by the counterpart or on the side of the humanitarian organization. While many of these situations could be easily settled in normal circumstances through an explanation and a smile, negotiation on the frontlines may be impacted by the way explanations are provided. While everyone has moral imperatives, frontline negotiators should be aware that morality and ethics are cultural norms in essence and may require some tact in finding an appropriate solution. Yet, the moral standing of the negotiators are as important than professional or institutional standing of the organization. Frontline negotiators should therefore avoid ambiguities about their moral character and reputation under the local customs, as well as their own moral imperatives.

Flexibility regarding red lines and institutional policies

Red lines are part of the mandate of the negotiator. These cannot be changed with the agreement of the mandator. There may be circumstances where red lines are not as "red" 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 the 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 as to ensure the humanitarian character of the mission and objectives of the organization. These decisions have major consequences on the modus operandi and liabilities of the organization and should be taken at the appropriate level of the hierarchy. In all cases, the negotiator is, in principle, not allowed to take decisions on the location of the red lines as it affects the core of his/her mandate which is not under his/her control.

APPLICATION OF TOOLS AND METHODS

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 a scenario for the negotiation process.

This segment examines 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.

SITUATION 1

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 from leaving their residence in District A for almost a week by tribesmen following a disagreement between HfA and the guards of the local HfA hospital. This dispute follows plans of HfA 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 is 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 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 A.

For now, the hospital is hardly operational with several emergency needs are 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 is a private labor dispute. The army and police have only a limited presence and control over the situation in A and would not intervene without the support of the tribal chiefs.

A number of legal, institutional, professional and ethical red lines are at play in this context. Each red line represents a policy of the organization, here Health for All.

STEP 1

Identify 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 to social rules as long as these customary rules do not contradict with other legal obligations or institutional norms. It may also call upon the protection of its staff under local rules.	Building on customary norms requires guarantees from the tribal leaders for the safety and security of staff as a precondition to a dialogue with HfA.
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.	Requires the commitment of tribal leaders as de facto authorities in the District for a prompt release of staff as an essential step to consider further activities in the region.
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.	Call on the respect of international law as a framework for the provision of health care services to populations in need in the District.

STEP 2

Identify institutional red lines

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
Humanitarian principles	Humanity: General health care needs fall outside the mission of HfA (which focuses on surgical care). Impartiality: Those most in needs, life-saving cases, should receive assistance first. Neutrality: HfA should ensure that it is not perceived as taking sides to the tension within the community. Independence: HfA should ensure that its decisions are explained in a way that counterpart can understand the rationale and values of HfA.	HfA negotiators cannot commit to keep this hospital open forever. HfA must respond to the needs of patients currently in the hospital and new emergency care cases. HfA should avoid taking sides of the families of patients. HfA negotiators should be prepared to explain carefully the position of HfA.
Duty of care	HfA has a duty of care towards the safety and security of its staff, regardless of their status or location.	HfA must make its best efforts to reconnect immediately and seek the release of its staff in a safe manner. Their well-being is a priority of the negotiation.

Do no harm	HfA is committed to take steps to avoid or minimize any adverse effects of this negotiation, in particular the risk of exposing staff, patient 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 ramification of the position taken on the welfare of the staff, patients and families.
Security protocol	HfA is committed to ensure the best protocol and standards to ensure the safety and security of its staff.	HfA negotiators should avoid discussing the details of security conditions with tribal leaders without clear advice from HfA security experts, for e.g. regarding the redeployment of tribesmen.

STEP 3

Identify professional 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 reviewed regularly by health professionals from other organizations.	Positions pertaining to the planning of the 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 approved by internal health directorate as well as the local officials of the Ministry of Health.

Professional aid standards	HfA is a professional aid organization keen to maintain recognized aid standards in terms of assessment of needs, accountability to beneficiaries and participation of the population and communities to its programming.	Negotiators must remain aware of the opinions of community leaders, family of patients as well as families of guards regarding the negotiation process. They must have access to conduct the required consultation.
Professional negotiation standards	HfA negotiators must have the required experience to lead complex negotiation and ensure the proper protocols.	- HfA doe not accept to negotiate under pressure. HfA negotiators must have immediate access to the HfA staff retained in their residence to reconnect and ensure their well-being. - HfA negotiator is the sole representative of HfA in the District during the negotiation. He/she must be able to consult regularly with the HfA staff, including those retained in their residence.

STEP 4

Identify moral and ethical red lines

SOURCES OF RED LINES	INSTITUTIONAL POLICY	RED LINES OF THE MANDATE
Solidarity with HfA staff	HfA must demonstrate a 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 negotiator should visit HfA staff held in their residence.
Solidarity with patients and their family	HfA must be committed to the well-being of the patients under its care and their family. 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.
Solidarity with disabled guards and their families as well as families of guards killed on duty	HfA is committed to the welfare of its staff wounded on duty as well as the family of staff killed on duty. It must find appropriate arrangements to ensure a 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 family of injured or killed staff.

As a summary of the applicable policies, the red lines of the mandate are as follows:

CUMULATED RED LINES INFORMING THE HFA NEGOTIATOR'S MANDATE

ISSUES/ STAKEHOLDERS	TRIBAL LEADERS	GUARDS AND FAMILY	PATIENTS AND FAMILY	HFA LOCAL STAFF	HFA RETAINED STAFF
Safety and security of staff and operations	- Must ensure security of staff at all times. - Must redeploy tribesmen away from the residence.	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.
Access to health care of the population	All HfA staff must be able to return to work to fill their health duties.	Must be able to ensure that wounded guards have access to the required care.	Must be able to consult with patients and family 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 family and community of 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.

PRACTICE AND SIMULATION

For practice and simulation on the elaboration of the **red lines**, please refer to the exercise of the modules on “Identification of priorities and objectives” and “Design of scenarios and bottom lines” in Section **Yellow**.

PROFESSIONAL DELIBERATIONS

The purpose of this segment is to provide some guidance and topics to orient discussions on the analysis of the cost/ benefit of the institutional policies and inform the design of red lines.

Points for professional deliberations

1. To what extent humanitarian organizations are bound by national or customary laws if such laws are treating people in an unfair manner?
2. how should humanitarian organizations be pragmatic regarding offers that would violate institutional policies? Who should the negotiator refer to?
3. Are there situations where the severity of the crisis justify a breach to all sorts of policies?
4. How can one justify rejecting conditions of access based on one's stringent interpretation of the mandate that end up costing countless lives of affected populations? Are the values of principles and institutional norms measurable in terms of the lives of the beneficiaries?
5. When should moral imperatives intervene in a negotiation? What about the values of the negotiator?
6. How should an organization's management address the conflict of norms and institutional policies, at times agreeing for a compromise while such compromise is unacceptable under another angle (e.g. distribution of aid to security guards)?

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