Humanitarian Negotiation:
Key Challenges and Lessons Learned in an Emerging Field

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Introduction

Negotiations are crucial for the overall success of humanitarian operations, yet these endeavors are inherently challenging. In particularly stark terms, according to one practitioner: "everything has to be negotiated by teams on the ground and it will always be painful and difficult."[1] Given both the importance of humanitarian negotiations and the gravity of the difficulties faced, what is the capacity of the humanitarian sector to carry forward lessons learned from past negotiations? This paper addresses this question. Specifically, this paper examines the field of humanitarian negotiation as a unique professional domain that has encountered common challenges across different geographic contexts. The overall issue at hand is that, although negotiators in different settings have encountered similar dilemmas and obstacles, the field of humanitarian negotiation has been slow to develop a body of research analyzing common issues faced, produce policy guidance that grapples in an in depth manner with the practical difficulties of humanitarian negotiations, and build professional networks both within individual organizations and across the sector so that negotiators can share best practices with one another.

This paper proceeds in three parts. Part I presents an overview of the key challenges faced in the field of humanitarian negotiation. Part II examines the past efforts that have been undertaken to promote a deeper understanding of this field. Based on this analysis, Part III offers concluding remarks.

I. Key Challenges

This section discusses four overarching challenges that humanitarian negotiators have faced in a wide array of contexts. First, professionals often must navigate tensions between, on the one hand, the interests of the relevant parties, and on the other hand, humanitarian principles. Second, negotiations with non-state armed groups pose particular challenges due to the hostility that some armed groups exhibit toward humanitarian organizations, concerns that governments have articulated that engaging with armed groups confers legitimacy on these entities, and potential legal ramifications facing humanitarian organizations that negotiate with armed groups listed on international and/or national terrorist lists. Third, the confidentiality and flexibility that negotiations require has inhibited coordination across different organizations pursuing negotiations simultaneously. Fourth, humanitarian organizations have often struggled to effectively assess interlocutors before and during negotiation efforts.

A. Negotiating the Non-negotiable

One key question facing the field of humanitarian negotiation is how negotiators can and should grapple with the interplay between interests and humanitarian principles: in particular, independence, impartiality, and neutrality. In some contexts, humanitarian principles have been perceived to be essential for success. For example, one author concludes that, for

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[1] Geoff Loane, "Barriers to Negotiating Humanitarian Access: The Experience of the ICRC," available at
http://www.flyktninghjelpen.no/arch/_img/9108791.pdf

humanitarian organizations implementing the Emergency Relief Plan (ERP) in Angola in the 1990s, "Doggedly asserting the neutrality of the ERP was the best defense against manipulation by the warring parties."[2] However, in many contexts, governmental or non-state actors do not accept or abide by humanitarian principles, leading one author to conclude: "The question for the negotiator is thus, how to negotiate from this clear universally accepted 'legal and moral high ground' when it is blatantly rejected, ignored or simply misused."[3] Given this complexity, how should negotiators proceed with negotiations? Traditional negotiating tactics exist uneasily with humanitarian principles, despite the fact that humanitarian principles, according to existing policy literature, should be used to "frame" and "guide" humanitarian negotiations.[4] This section examines compromises, threats to pull out of negotiations, and threats of public denunciation, all tactics that humanitarian negotiators have employed in different contexts.

First, striking compromises during humanitarian negotiations can be necessary but can lead to questions about how humanitarian professionals can distinguish between what is and is not an acceptable outcome. For example, in Sudan, in order to retain access, aid agencies avoided activities that could have been viewed with suspicion by the government, even if this choice risked flying in the face of the need to abide by the humanitarian principle of impartiality. According to one author:

> The reactions of aid agencies to this situation show some of the tendencies that it is hoped may be addressed through a greater use of historical analysis. Some agencies have agreed to provide aid to government areas even while access to areas under SPLM-N [Sudan People's Liberation Movement-North] control remains blocked. Many avoid activities the government may see as suspicious or offensive: some have chosen not to provide aid in refugee camps for people from Southern Kordofan and Blue Nile in South Sudan for fear of being perceived by the government of Sudan as supporting the SPLM-N. While SPLM-N frustration with the international community grows and many within the SPLM-N believe that the UN [United Nations] has been infiltrated with government spies, some aid agencies hold out hope that the government can still be persuaded through private advocacy or 'good behaviour' on the part of aid agencies.[5]

[2] Anna Richardson, "Negotiating humanitarian access in Angola: 1990 – 2000," New Issues in Refugee Research, Working Paper No. 18, UNHCR, June 2000, p. 23, available at http://www.unhcr.org/3ae6a0c9b.html

[3] Daniel Toole, "Humanitarian Negotiation: Observations from Recent Experience," Program on Humanitarian Policy and Conflict Research at Harvard University, February 2001, p. 7, available at http://reliefweb.int/sites/reliefweb.int/files/resources/4075128EE01F989BC12571D3004636E1-Harvard-Feb2001.pdf

[4] Gerard McHugh and Manuel Bessler, "Humanitarian Negotiations with Armed Groups: A Manual for Practitioners," United Nations, January 2006, pp. 25-29, available at https://docs.unocha.org/sites/dms/Documents/HumanitarianNegotiationswArmedGroupsManual.pdf

[5] Ashley Jackson and Eleanor Davey, "From the Spanish civil war to Afghanistan Historical and contemporary reflections on humanitarian engagement with non-state armed groups," HPG Working paper, Humanitarian Policy Group, May 2014, p. 10, available at http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8974.pdf

Similarly, as another writer states, in Bosnia, the efforts of the United Nations Refugee Agency (UNHCR) to maintain the appearance of impartiality actually led to efforts that were not at all impartial:

> UNHCR initially attempted to distribute humanitarian supplies on the basis of needs, rather than on the basis of relative population figures for the different areas. However, under pressure from the warring parties, and wanting to demonstrate its impartiality, UNHCR distribution plans came to represent a compromise solution. They were based mainly on population figures, although slightly larger quantities of food were sent to areas where conditions were worst. This led to genuine confusion. It was not enough to convince the Bosnian government that the UNHCR distribution plan was based on relative needs, but it was enough to convince to Bosnian Serb authorities that distributions were not equitable and that UNHCR was not an unbiased social welfare provider.[6]

Second, when an acceptable agreement seems either difficult to achieve or unlikely, when should humanitarian negotiators threaten to pull out of negotiations, and when should a humanitarian organization follow through with such a threat? In other words, when is it better to reject a bad deal (thus providing humanitarian aid to no one) than to accept a bad deal (thus providing aid subject to restrictions imposed by governing authorities or armed groups that counter humanitarian principles)?

In terms of red lines that humanitarian negotiators should set regarding what types of compromises are acceptable, various practitioners have stated that this issue is context-specific, thus requiring a certain degree of flexibility.[7] However, as one practitioner has stated, a perception exists that there are limits to what can be negotiated away: "The fundamental legal norms of the humanitarian product are not negotiable — you could not tailor a humanitarian product so that you accept an armed group killing half rather than all of a village."[8] No agreement exists across the humanitarian sector about how to make these determinations.

Third, another tool at the humanitarian negotiator's disposal is the threat of public denunciation.[9] Regarding when to resort to public denunciation, the following guideline has been offered: "During the second world war, the ICRC [International Committee of the Red

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[6] Mark Cutts, "The humanitarian operation in Bosnia, 1992-95: dilemmas of negotiating humanitarian access," New Issues in Refugee Research, Working Paper No. 8, Policy Research Unit, UNHCR, May 1999, p. 15, available at http://www.unhcr.org/3ae6a0c58.pdf

[7] See, for example, Marie Pierre Allie, "Introduction," in Humanitarian Negotiations Revealed, eds., Claire Magone, Michael Neuman, and Fabrice Weissman (London: Hurst & Company, 2011), 5; and "Delaunay: Negotiation Key to Gaining Humanitarian Access," International Peace Institute, April 11, 2012, available at http://www.ipinst.org/events/panel-discussions/details/350-delaunay-negotiation-key-to-gaining-humanitarian-access.html

[8] Hugo Slim, "Marketing Humanitarian Space: Argument and Method in Humanitarian Persuasion," Humanitarian Negotiators Network, HD Centre for Humanitarian Dialogue, May 2003, p. 10, available at http://www.hdcentre.org/uploads/tx_news/219-Marketing-Humanitarian-Space.pdf

[9] For a description of the ways that threats of public denunciation were used in humanitarian negotiations in the Democratic Republic of the Congo, see Johan Pottier, "Roadblock Ethnography: Negotiating Humanitarian Access in Ituri, Eastern DR Congo, 1999-2004," Africa 76 (2), 2006, at 23.

Cross], agonizing over the dilemma between silent action and public denunciation, received the following advice: 'when you can act, act and don't protest. When you can't act, protest. But don't not act and not protest.'"[10] A risk, though, is that engaging with the media might backfire. As one practitioner writes, "Denunciation has the advantage of being faster and less costly than persuasion. However, it poses the risk of antagonizing the parties, burning bridges between parties, and prompting officials to close ranks and join forces to rebuff criticism."[11] In other instances, remaining silent, even when witnessing incidents of grave concern, can be essential to maintain relations — and hence, access — with a host government or armed group. For example, Médecins Sans Frontières (MSF) was cautious about publicly mentioning air strikes witnessed by MSF personnel in Yemen due to potential ramifications in terms of access.[12] Additionally, during negotiations for access to Shabaab-controlled territory in Somalia, al-Shabaab imposed the condition that humanitarian professionals refrain from publicly speaking out against the group.[13] As with compromises and threats to pull out of negotiations, although this issue has arisen in similar ways in different contexts, little examination has been conducted of how these past experiences can inform future approaches to determining when and how public denunciation — or merely threats to do so — can serve the ends of humanitarian access and protection.

Overall, the realities of negotiation practice suggest that humanitarian principles actually play a less significant role than the existing policy literature recommends. For example, a handbook on negotiations published by the United Nations Office of the Coordination of Humanitarian Affairs (OCHA) states:

> Humanitarian negotiations differ from many other types of negotiations because the parties to the negotiations have different core interests: armed groups want to achieve certain political, economic or military objectives and humanitarian agencies want to protect and assist those in need. Some approaches to negotiation focus on solutions that maximize the interests of both parties. However, for humanitarian negotiators, the primary objective of the negotiations must be to arrive at the best humanitarian outcome, not necessarily to reach an outcome which best serves the interests of both parties.[14]

But negotiators have not always accepted this dichotomy between principles and interests. As one practitioner states, "You shouldn't believe in yourself as the bearer of some absolute moral virtue. We have interests, the authorities have interests. And so we have to find

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[10] Arafat Jamal, "Access to safety? Negotiating protection in a Central Asian emergency," Evaluation and Policy Analysis Unit, UNHCR, p. 14, available at http://www.unhcr.org/3ae6a0c30.html

[11] Soledad Herroro, "Negotiating humanitarian access: Between a rock and a hard place," Professionals in Humanitarian Assistance and Protection, February 11, 2014, available at http://phap.org/articles/negotiating-humanitarian-access-between-rock-and-hard-place

[12] Michel-Olivier Lacharite, "Yemen: A Low Profile," in Humanitarian Negotiations Revealed, eds., Claire Magone, Michael Neuman, and Fabrice Weissman (London: Hurst & Company, 2011), 43-45.

[13] Ashley Jackson and Abdi Aynte, "Talking to the other side: Humanitarian negotiations with Al-Shabaab in Somalia," HPG Working paper, Humanitarian Policy Group, December 2013, p. 10, available at http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8744.pdf

[14] McHugh and Bessler, supra note 4, at 50.

common interests between those different parties and groups."[15] Such statements suggest that a divide exists between negotiations as presented in existing policy literature and the experiences and practices of negotiators themselves, thus indicating the need for additional policy guidance that grapples in an a more in depth manner with this issue.

B. Negotiating with Armed Groups

Three particular challenges exist regarding negotiating with armed groups. First, some armed groups are inclined to distrust, or even blatantly express hostility toward, humanitarian organizations. For example, in Afghanistan, negotiators engaged with the Taliban, many members of which perceived that humanitarian organizations, as stated by one Taliban member, "work under the universal powers who drink the blood of Muslims (…)."[16] Similarly, in Somalia, members of al-Shabaab have worried that humanitarians were operating as spies,[17] planning assassinations,[18] profiting in some way from humanitarian operations,[19] or engaging in proselytization.[20] The question is how negotiators can make any successful negotiating inroads with entities predisposed to view humanitarian organizations as enemies.

Second, negotiators engaging with armed groups often face resistance from governmental actors who perceive that this engagement will bestow legitimacy on these groups. The fact that engagement is not intended to confer legitimacy on armed groups is widely acknowledged by relevant policy literature.[21] However, governments carry this concern nonetheless, and in certain contexts, this concern has proved justified.[22] Indeed, one reason that some armed groups engage with humanitarian organizations is to derive this very form of legitimacy about which governments have expressed concern. Sierra Leone is one of the many contexts in which this issue has arisen. Indeed, as noted by one author, "RUF [Revolutionary United Front] leaders attached [importance] to presence of aid agencies for the purpose of their own credibility and legitimacy, according to one of the leaders of the RUF: 'to prove to the world we are not the beast we are held to be.'"[23] As this passage suggests, humanitarian negotiators face a conundrum. On the one hand, negotiators must assure governments that engaging with anti-government non-state entities will not confer legitimacy upon these groups. On the other hand, the potential for legitimacy can be one of humanitarian negotiators' strongest selling points for drawing armed groups into productive negotiations.

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[15] Joe DeCapua, "Negotiating Medical Aid in Conflict Zones," Voice of America, February 2, 2012, available at http://www.voanews.com/content/decapua-msf-negotiations-3feb12-138634034/159549.html

[16] Ashley Jackson, "Negotiating perceptions: Al-Shabaab and Taliban views of aid agencies," Policy Brief 61, Humanitarian Policy Group, p. 2, available at http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9104.pdf

[17] Ibid.

[18] Jackson and Aynte, supra note 13, at 16.

[19] Jackson, supra note 16, at 2.

[20] Michaël Neuman (interview with Benoît Leduc), "Somalia: Everything is Open to Negotiation," Médecins Sans Frontières, Crash, available at http://www.msf-crash.org/livres/en/somalia-everything-is-open-to-negotiation

[21] For example, the United Nations handbook on humanitarian negotiations produced in 2006 states, "Humanitarian negotiations do not infer any legal status, legitimacy or recognition of the armed group." See McHugh and Bessler, supra note 4, at 14.

[22] Such governmental concerns affected humanitarian negotiations with armed groups in a wide array of contexts, including Angola in the 1990s and Afghanistan in 2008. For Angola, see Richardson, supra note 2, at 3. For Afghanistan, see Gerard McHugh and Simar Singh, "Preserving the integrity of humanitarian negotiations," Humanitarian Exchange Magazine, Issue 58, July 2013, available at http://www.odihpn.org/humanitarian-exchange-magazine/issue-58/preserving-the-integrity-of-humanitarian-negotiations

[23] Max P. Glaser, "Negotiated Access: Humanitarian Engagement with Armed Non-state Actors," Carr Center for Human Rights Policy, Kennedy School of Government, Harvard University, 2002-2003, p. 40, available at http://www.hks.harvard.edu/cchrp/pdf/NegotiatedAccess.pdf

As a consequence, humanitarian negotiators find themselves caught between the irreconcilable interests of governments and non-state actors.

Third, additional dilemmas arise when humanitarian organizations negotiate with entities listed on domestic and/or international terrorist lists. In such instances, engaging with these groups could have legal consequences.[24] Contexts where humanitarian organizations have grappled with this issue include the occupied Palestinian territories, where some humanitarian organizations adopted an official policy of cutting off ties with Hamas;[25] Somalia, where this issue has led to the need for "new layers of staffing to oversee administration and monitoring and significantly enlarged operational budgets;"[26] and Colombia, where "contact with guerrilla groups is prohibited by law."[27]

C. Coordination Among Different Institutional Entities

Humanitarian professionals widely acknowledge the importance of coordination during negotiations. Various authors have written that "[i]t is also important for organisations to get their policies and field level approaches aligned;"[28] "[g]etting early 'buy in' from a broad range of humanitarian agencies will assist in securing commitment from these agencies to any agreed outcome with the armed group;"[29] and "every negotiation pursued on behalf of your own agency must seek to complement rather than compete with the negotiation efforts of humanitarian colleagues in other organisations."[30] However, due to the highly politicized climate in which humanitarian organizations operate, as well as the confidentiality required for humanitarian negotiations, coordination between negotiators from different organizations has often been challenging. As one writer states, "Few aid agency staff share complete details of access negotiations with their headquarters, other aid agencies (even those operating in the same geographic area) or donors. Internal transparency is profoundly lacking when it comes to talking to armed groups."[31] The vexing policy question is how humanitarian organizations can reconcile these conflicting needs for coordination and confidentiality. This dilemma is especially relevant given the risk that, in the absence of effective coordination, during negotiations, governmental or non-state entities that control territorial access can play

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[24] See generally, "Humanitarian Action under Scrutiny: Criminalizing Humanitarian Engagement," HPCR Working Paper, Program on Humanitarian Policy and Conflict Research at Harvard University, February 2011, available at http://c0186748.cdn1.cloudfiles.rackspacecloud.com/HPCR%20CHE%202011.pdf; "Countering Terror in Humanitarian Crises: The Challenges of Delivering Aid to Somalia," Program on Humanitarian Policy and Conflict Research at Harvard University, July 2012, available at http://www.hpcrresearch.org/sites/default/files/publications/Somalia%206-30-12%20final.pdf; and Naz K. Modirzadeh, Dustin A. Lewis, and Claude Bruderlein,"Humanitarian engagement under counter-terrorism: a conflict of norms and the emerging policy landscape," *International Review of the Red Cross*, Volume 93, Number 883, September 2011, available at http://www.icrc.org/eng/assets/files/review/2011/irrc-883-modirzadeh-lewis-bruderlein.pdf. Links to additional literature that addresses this issue can be found on the website of the Program on International Law and Armed Conflict, available at http://pilac.law.harvard.edu/counterterrorism-and-humanitarian-engagement-project/
[25] McHugh and Singh, supra note 22.
[26] Jackson and Aynte, supra note 13, at 8.
[27] Glaser, supra note 23, at 34.
[28] Loane, supra note 1.
[29] McHugh and Bessler, supra note 4, at 21.
[30] Deborah Mancini-Griffoli and André Picot, "Humanitarian Negotiation: A Handbook for Securing Access, Assistance and Protection for Civilians in Armed Conflict," HD Centre for Humanitarian Dialogue, October 2004, p. 36, available at http://www.hdcentre.org/uploads/tx_news/188HumanitarianNegotiation.pdf
[31] Ashley Jackson, "Humanitarian negotiations with armed non-state actors: key lessons from Afghanistan, Sudan and Somalia," Policy Brief 55, Humanitarian Policy Group, p. 4, available at http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8847.pdf

different organizations against one another, as occurred, for example, during the conflicts in Somalia and the former Yugoslavia.[32]

D. Assessing Interlocutors

Policy literature on humanitarian negotiations emphasizes the importance of understanding the personalities of individual interlocutors,[33] the cultural context at hand,[34] and the organizational dynamics of the entity with whom negotiations are being pursued.[35] However, all three of these aspects — personality, culture, and organizational dynamics — can be difficult to assess.

First, negotiators often must operate in a rapidly evolving on-the-ground environment. Even if a negotiator makes a personal connection with an interlocutor, control of the relevant territory can quickly change hands, meaning that the negotiator will have to begin negotiation efforts anew with a different individual. Conversely, forging a personal connection that is too close to an interlocutor can also be problematic, as occurred with UNHCR in Bosnia, where:

> (…) humanitarian personnel on the ground often misjudged their local interlocutors, underestimating their deceptiveness and making excuses for their obstructionism. They often devoted considerable time and energy to building up relationships with local authorities based on trust. In the process, friendships were established, with varying degrees of intimacy. In many situations, staff became reluctant to challenge these authorities and to be seen as being 'confrontational.'

Second, regarding the development of cultural expertise and an understanding of the organizational dynamics of a particular governmental or non-state entity, humanitarian organizations have tended to devote insufficient resources and time to this area, despite the fact that such assessments can be crucial to the success of negotiation efforts, and hence, to the overall success of a humanitarian operation. As one author states, "Culture is a crucial factor in negotiation. UN staff are often not equipped to understand the historical and cultural context that explains the behaviour of their interlocutors. Unnecessary offence may be given by arrogant personal behaviour or institutional posturing."[36]

Third, organizational dynamics can be inherently difficult to discern, especially when negotiators are engaging with a decentralized armed group beset by its own internal power

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[32] For Somalia, see Ibid., at 4. For the former Yugoslavia, see Cutts, supra note 6, at 11.

[33] For example, one practitioner writes: "Personality assessment is another key judgement that humanitarian negotiators need to make as they seek to persuade people. Understanding what makes a person tick is essential to gauging how best to tick with them. Is your interlocutor essentially a loner or gregarious? Is he or she intrinsically happy or sad? Is she or he driven by power, insecurity, ideals or circumstance? What and who are important to his or her life? What makes them laugh and what makes them angry? Are they trustworthy? Are they sane?" See Slim, supra note 8, at 14.

[34] See, for example, Antonio Donini, "Negotiating with the Taliban," in Humanitarian Diplomacy: Practitioners and Their Craft, eds. Larry Minear and Hazel Smith (Tokyo: United Nations University, 2007), 171.

[35] McHugh and Bessler, supra note 4, at 16.

[36] Antonio Donini, "Negotiating with the Taliban," in Humanitarian Diplomacy: Practitioners and Their Craft, eds. Larry Minear and Hazel Smith (Tokyo: United Nations University, 2007), 171.

struggles. In such instances, it might not be clear who holds actual authority and with whom within a particular organization negotiators should aim to engage.[37] A related issue is that, in a complex security environment, humanitarian professionals might not be able to discern which group controls the territory, and therefore, would struggle to figure out with which entity the humanitarian organization should negotiate.[38]

II. Carrying Forward Lessons Learned

What is the humanitarian sector's capacity to carry forward lessons learned regarding the challenges mentioned in the previous section? The aforementioned confidential nature of negotiations has evidently served as an impediment to sharing experiences and lessons learned across the sector. Indeed, as mentioned earlier, in certain complex environments where sensitive negotiations occurred, frontline negotiators did not even inform superiors within their own organization about ongoing negotiation efforts.[39] The humanitarian sector has also been slow to appreciate the important role that negotiations play in the success of humanitarian operations,[40] and as one policy document mentions, "[n]o [c]ommon [n]egotiating [c]ulture" exists across the sector.[41] These factors are reflected in three gaps in the exiting body of literature on humanitarian negotiation, as the rest of this section discusses.

First, literature on past humanitarian negotiation experiences focuses primarily on context-specific case studies. To date, no analysis has been conducted of how negotiators in different contexts have approached cross cutting challenges, such as the issues examined in the previous section of this paper. This literature gap suggests a perception that negotiations are context-specific, and that experiences in, for example, Colombia, might not helpfully inform negotiations in another region, such as the Middle East or Africa. The assessment of the key challenges presented in this paper, though, suggests the opposite conclusion. Indeed, in Latin America, the Middle East, and Africa — though some elements of negotiation efforts are, of course, specific to each individual context — negotiators face similar overarching challenges, and lessons learned in one region could apply elsewhere as well.

Second, there is a dearth of analysis geared toward garnering a conceptual understanding of humanitarian negotiations. Despite the fact that there is a vast body of literature addressing the role that factors such as power, interests, relationships, basic human needs, and culture play in commercial, legal, and political negotiations,[42] no literature exists that applies these

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[37] One context where this issue has arisen is Somalia, where the decentralized nature of al-Shabaab presented difficulties. See Jackson and Aynte, supra note 13, at 17.

[38] Ibid., at 11.

[39] Ibid., at 10.

[40] For an assessment of how this factor affected humanitarian negotiations in Iraq, see Claudia Rodriguez, "Negotiating the legitimacy of humanitarian action in Iraq," in Humanitarian Diplomacy: Practitioners and Their Craft, eds. Larry Minear and Hazel Smith (Tokyo: United Nations University, 2007), 125.

[41] Mancini-Griffoli and Picot, supra note 30, at 29.

[42] For examples, see generally Roger Fisher, William Ury, and Bruce Patton, Getting to Yes: Negotiating Agreement Without Giving In (New York: Penguin Books, 1991); Gary T. Lowenthal, "A General Theory of Negotiation Process, Strategy, and Behavior," 31 University of Kansas Law Review 69 (1982-1983); Dennis Sandole, "Extending the Reach of Basic Human Needs: A Comprehensive Theory for the Twenty-first Century," in Conflict Resolution and Human Needs: Linking Theory and Practice, eds. Kevin Avruch and Christopher

conceptual frameworks to the field of humanitarian negotiation. Indeed, a perception pervades that humanitarian negotiations are unique. For example, recall the aforementioned quote from an OCHA policy document, which states, "Humanitarian negotiations differ from many other types of negotiations because the parties to the negotiations have different core interests (…)."[43] This perception has led analysts of humanitarian negotiations to shy away from marrying the practice of humanitarian negotiation with the wealth of valuable literature that focuses on other negotiation contexts. As a result, existing literature offers little analysis of how humanitarian negotiations unfold and how past successes and failures can be explained.

Third, a foundational body of policy literature has been produced that addresses the key challenges faced, but various questions remain about the practical realities of negotiation efforts. What role do humanitarian principles actually play — and what role can and should principles actually play — in negotiation efforts? When are tactics such as threatening to pull out of negotiations or resorting to public denunciation appropriate, and when might such tactics harm negotiation efforts? How can organizations strike a balance between, on the one hand, the need to keep negotiations confidential and to grant negotiators room to maneuver compromises, and on the other hand, to coordinate on negotiations with other organizations operating in the same context? How can negotiators develop quick and useful assessments of interlocutors in a rapidly evolving environment where information about entities that control territory is difficult to obtain? Professional engagement with humanitarian negotiators from different organizations and across different geographic contexts can build on the policy guidance previously generated to illuminate how practitioners have grappled with these questions in past negotiation efforts and fill an existing policy guidance gap.

III.   Conclusion

Despite the essential role that negotiations play in humanitarian operations, sector-wide professional engagement in this area still exists in a nascent phase. A vast number of professional experiences, lessons learned, and notions about best practices remain either undocumented or under-analyzed. Efforts to address this issue could assume two separate, though compatible and interrelated, forms. First, analysis on the conceptual level, drawing on the rich body of theoretical literature on negotiation, could yield a more in depth comprehension of the factors that drive humanitarian negotiations. Second, engagement with practitioners would allow for documentation and analysis of practitioners' own perspectives on the state of this field. Such endeavors, by gathering information about different approaches taken to key challenges, analyzing best practices, and developing networks for professionals to share views and experiences with one another, could promote the emergence of a community of practice in this professional field.

Given the importance of negotiations to accessing beneficiaries, implementing humanitarian relief programs, and ensuring humanitarian protection, enhanced research and professional engagement on this issue would be of great value to the humanitarian sector. The key challenge will be to seek innovative ways of promoting professional exchange while also

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Mitchell (New York: Routledge, 2013); and Jeswald W. Salacuse, The Global Negotiator: Making, Managing, and Mending Deals Around the World in the Twenty-first Century (New York: Palgrave Macmillan, 2003).

[43] McHugh and Bessler, supra note 4, at 50.

respecting the confidential nature of humanitarian negotiations. The literature that does exist on this issue suggests a desire on the part of negotiators to share their experiences and to engage in professional reflection. The next step will be for the humanitarian sector to harness this self-analytical energy and to direct further efforts toward conducting in depth research on this issue, building professional networks between negotiators across organizations and contexts, and crafting a body of policy literature that builds on the foundational guidance that already exists.

About the Author

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The Advanced Training Program on Humanitarian Action (ATHA) seeks to build operational capacity, to facilitate learning across organizations in the humanitarian sector, and to mobilize change through a community of practice. ATHA's unique set of online and in-person learning tools, trainings, and engagement with the professional community support the expansion and deepening of key legal and policy exchanges within and across agencies in order to create a dynamic and creative space for learning and innovation.

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