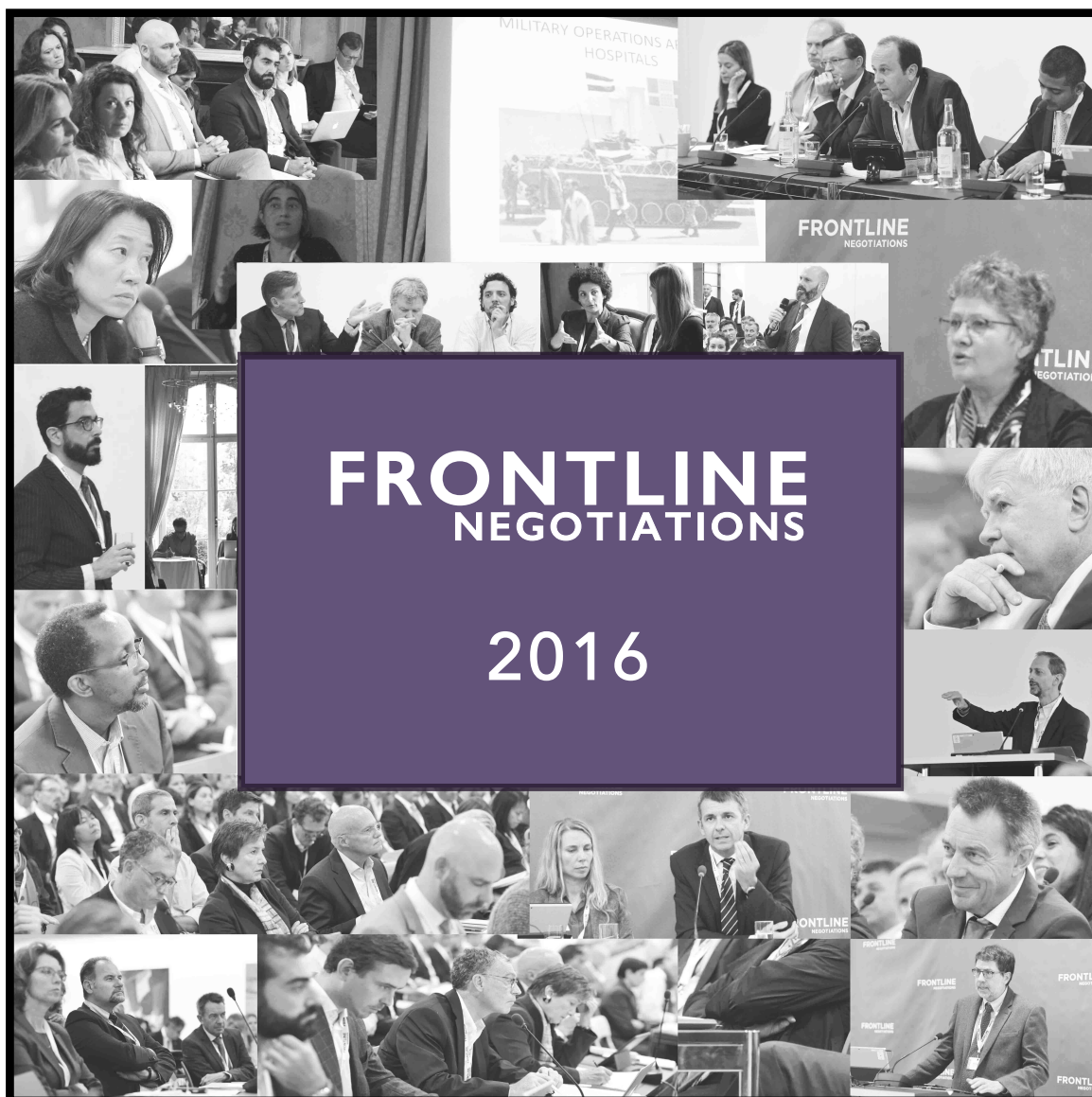


## Centre of Competence on Humanitarian Negotiation

***Annual Meeting of  
Frontline Humanitarian Negotiators***

**25-26 October 2016, La Pastorale, Geneva.**



# ***Final Report***

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## Executive Summary

The purpose of this report is to provide a summary of the deliberations of the first *Annual Meeting of Frontline Humanitarian Negotiators* organized by the Centre of Competence on Humanitarian Negotiation at La Pastorale in Geneva on 25 – 26 October 2016. **The main objectives of the first Annual Meeting were to facilitate an informal dialogue among humanitarian professionals engaged in operational negotiations on the challenges and dilemmas of humanitarian negotiations on the frontlines, as well as to identify expectations of field practitioners toward the new Centre of Competence.** The *Annual Meeting* was made possible thanks to the support of the Swiss Federal Department of Foreign Affairs.

**Over 160 professionals from leading humanitarian organizations as well as academic and policy circles took part to the deliberations.** Organized around seven key themes, the *Annual Meeting* provided a first opportunity to gather experienced humanitarian negotiators in an informal manner with the aim to review a series of challenges and dilemmas arising across their practices.

**Overall, participants recognized that humanitarian professionals engaged in frontline negotiations are confronted with increasingly complex environments that require new capacity and resources to analyse conflict situations and networks of actors,** understand the perspectives of counterparts, as well as envisage practical avenues for ensuring the implementation of negotiated arrangements. Humanitarian negotiators should be able to draw from local norms and social networks to build ownership around humanitarian requirements and proposed arrangements. They should also remain cognizant of the perceptions of counterparts regarding the potential political dimensions or implications of humanitarian activities. **A central observation of the participants related to the importance of sharing negotiation experiences across a community of practice so as to collectively learn and explore ways to improve negotiation practices and outcomes.**

Participants observed a **lack of understanding within aid agencies of the strategic character of humanitarian negotiations**, leaving humanitarian negotiators often isolated and under-resourced. Likewise, negotiation practices on the frontlines seem rarely discussed in policy circles. As a result, frontline humanitarian negotiators often have **limited guidance** in the planning of negotiation processes, the design of humanitarian arrangements, and the evaluation of cost and benefit of tactical options.

In this context, participants presented a number of **expectations toward the new Centre of Competence on Humanitarian Negotiation**, including the provision of **professional development opportunities** tailored to the needs of frontline humanitarian negotiators, the development of **practical analytical and planning tools** for field practitioners, the preparation of **case studies analysing recurring challenges and dilemmas** of humanitarian negotiation practices, and the creation of a **safe space** for the sharing of experience among field practitioners.

The Centre of Competence, together with the Strategic Partners, donor, and members of the community of practice, will review these expectations carefully as the Centre of Competence plans its first year of activities.

# 1. Introduction

The **purpose** of this report is to provide a **summary of the deliberations** of the first *Annual Meeting of Frontline Humanitarian Negotiators* that took place at La Pastorale in Geneva on 25 – 26 October 2016. These **deliberations** are summarized in a series of sections corresponding to each of the seven themes of the *Annual Meeting* (hereunder in Chapter 2 under letter a. to g.) Each of the sections also presents a list of **expectations of participants towards the Centre of Competence** related to that theme. Chapter 3 summarizes a series of short presentations surrounding humanitarian negotiations and the creation of the new Centre of Competence. Chapter 4 presents the overall expectations of participants across all the themes and Chapter 5 discusses next steps. Hence, the aim of this report is to take stock of the discussions and expectations expressed by participants during the meeting; it should not be seen as an academic paper, nor does it pretend to exhaustiveness, consensus or in-depth knowledge on the issues addressed. This report should rather serve as a baseline against which to measure the progresses accomplished in fostering a community of practice over the coming years.

The *Annual Meeting* was organized by the Centre of Competence on Humanitarian Negotiation to facilitate an informal dialogue among humanitarian negotiators on the challenges and dilemmas of humanitarian negotiations on the frontlines. It was made possible thanks to the support of the Swiss Federal Department of Foreign Affairs (FDFA).

The meeting also marked the official **launch of the Centre of Competence on Humanitarian Negotiation**, a joint initiative of the *Strategic Partnership on Humanitarian Negotiation* composed of UNHCR, WFP, MSF, the HD Centre, and the ICRC, with the support of the FDFA, dedicated to enhance and enrich peer-to-peer interactions among humanitarian negotiators as well as to support their professional development. Deliberations at the *Annual Meeting* served to identify the expectations of this professional community toward the new Centre of Competence.

In terms of the substantive **agenda** of the *Annual Meeting*, the seven main topics areas were identified following preliminary consultations with humanitarian practitioners and Strategic Partners in early 2016. For each of the seven topic areas, an informal working group composed of humanitarian practitioners and experts was created in collaboration with selected academic centers (CERAH, Chatham House, US Institute of Peace, Brandeis University, the Harvard Humanitarian Initiative, and the Graduate Institute in Geneva) which hosted thematic working groups in the months preceding the event to narrow down the issues of concern and help set-up engaging panels.

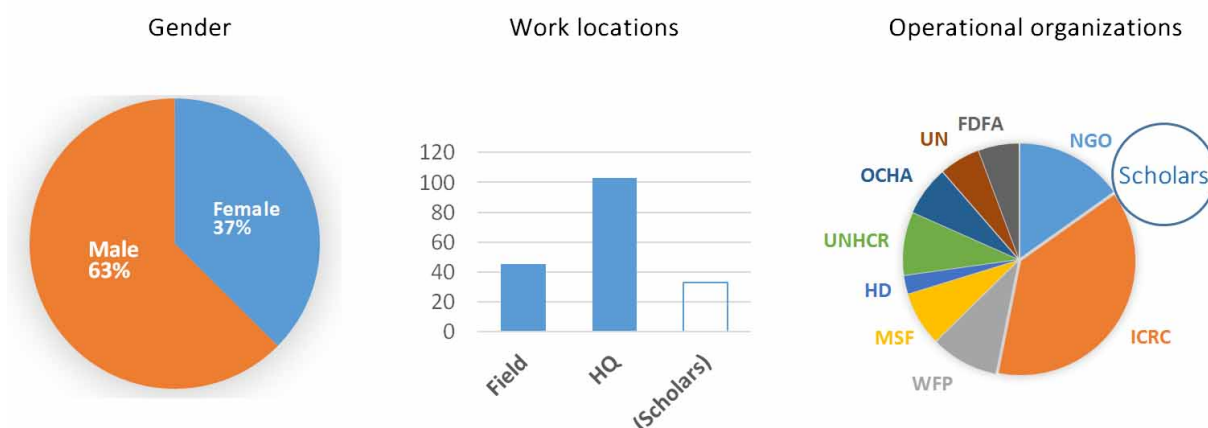
**Participants** to the *Annual Meeting* (including the Launch of the Centre of Competence) were composed essentially humanitarian practitioners and experts engaged in humanitarian negotiation at headquarters and in the field. Over 160 professionals took part to the deliberations from leading humanitarian and other organizations<sup>1</sup>, as well as academic, government, donor, private sector and

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<sup>1</sup> According to information gathered, participants working in the following organisations took part in the Annual Meeting (incl. official Launch): Action contre la Faim, Beyond Peace, Bioforce, Business Executives for National Security, Conflict Dynamics International, Consensus Building Institute, Danish Refugee Council, Emergency International, Geneva Call, Geneva Peacebuilding Platform, Handicap International, Humanitarian Dialogue Centre – HD, Inter-Agency Standing Committee - IASC, Internal Displacement Monitoring Centre, International Committee of the Red Cross, International Federation of the Red Cross, InterAction, International Medical Corps, International Sector Advisory Security Team, International Rescue Committee - IRC, Lebanon Humanitarian INGO Forum, MediatEur, Mercy Corps, Médecins sans Frontières - MSF, Norwegian Refugee Council, NUC, ODI, Oxfam, PHAP, Première Urgence, Swedish International Development Cooperation Agency - Sida, Community of St. Egidio, Swiss FDFA, Swisscross Foundation, swisspeace, Terre des Hommes, and the United Nations (UNDP, UNEP, UNHCR, UNICEF, UNOCHA, UNOG, UNSCO, WFP, UNMIS).

policy circles. All participants to the *Annual Meeting* were taking part in their personal capacity and were not expected to represent their agency or organization. While the personal character of the participation was made clear in the invitation, some participants argue that it may take some time until participants are at ease to communicate on personal grounds and not necessarily represent institutional positions.

*Profile of the participants to the Annual Meeting of Frontline Humanitarian Negotiators:*



The *Annual Meeting* was organized in three parts:

*Part I: Deliberations on the common challenges and dilemmas of humanitarian negotiation*

Panel and case study sessions were organized around each theme based on the series of backgrounder documents and preliminary conversations developed by each of the informal working groups.<sup>2</sup> Additional social events were organized to inspire informal exchanges among participants.

The seven areas of the *Annual Meeting* were identified as follows:

- 1) *Negotiating with Non-State Armed Groups*
- 2) *Negotiating the protection of the medical mission*
- 3) *Strengthening the capacity of humanitarian professionals to engage in frontline negotiation*
- 4) *Humanitarian mediation*
- 5) *Negotiating in the context of integrated response*
- 6) *The impact of gender and other diversity factors on humanitarian negotiations*
- 7) *Negotiating the implementation of the law*

*Part II. Specialized working group sessions*

Pursuant to the thematic working group meetings organized from April 2016 onward, each working group convened a special session in the afternoon of 26 October to take stock of their respective panel sessions and identify expectations of participants towards future activities of the Centre of Competence. All participants to the *Annual Meeting* were invited to attend the working group sessions of interest to them.

<sup>2</sup> All background documents of the panel sessions can be found on <http://www.frontline-negotiations.org/panels>.

### Part III. Official Launch of the Centre of Competence on Humanitarian Negotiation

The official launch of the Centre of Competence on Humanitarian Negotiation took place under the patronage of Swiss Foreign Minister Didier Burkhalter on the evening of 25 October at the ICRC's Humanitarium. High-Level Representatives of the five Strategic Partners (ICRC, UNHCR, WFP, MSF and HD) took part to the official event. The event also entailed a High-Level Panel of experienced negotiators to discuss issues related to the protection of civilians.



*High-Level Panel, which included (left to right) Ms. **Zainab Hawa Bangura**, Special Representative of the UN Secretary General on Sexual Violence in Conflict, Ambassador **Francis Deng**, Special Advisor on the Prevention of Genocide, Mr. **Michael Keating**, Special Representative of the UN Secretary General for Somalia, and Ambassador **Heidi Tagliavini**, Former Special Representative of the OSCE Chairman in office, and moderated by BBC Chief International Correspondent Ms. **Lyse Doucet** (centre).*



## 2. Summary of Deliberations and Expectations

Each panel session dedicated to a specific topic was accompanied by a separate session of the original informal working group (WG) dedicated to this topic to review expectations toward the new Centre of Competence. This chapter, thus, summarizes the deliberations of each of the panels and, followed by the expectations to the Centre of Competence in the related WG under the main themes of the *Annual Meeting*.

### *a) Negotiating with Non State Armed Groups (NSAG)*

The objective of this panel was to analyze specific challenges and dilemmas that humanitarian professionals face when negotiating with NSAGs through short interviews of senior practitioners from diverse fields and organizational backgrounds, with additional comments from experts and policy makers.

The panel was composed of:

*Pascal Bongard*, Head of Policy and Legal Unit, Geneva Call.

*Ashley Jackson*, Research Associate, Humanitarian Policy Group, ODI London.

*Andrew MacLeod*, Visiting Professor, Kings College, London.

*Rehan Zahid*, Program Officer, WFP Juba.

*Michiel Hofman*, Senior Humanitarian Specialist, MSF Belgium.

Facilitation: *Omar Odeh*, Senior Policy Associate, Humanitarian Negotiation Exchange, ICRC.

The discussants first identified key **characteristics of NSAG today**, pointing out their important diversity in terms of forms of governance, structure, chain of command, motives and constituencies. This diverse typology is compounded by an increasing fragmentation of NSAGs, adding to the complexity of negotiating with them in many contexts (Syria, Yemen, South Sudan, Casamance etc.). While some groups were described as having sophisticated governance systems and command structures, the vast majority is believed to remain rudimentary in this respect, with dispersed chains of command, complicating humanitarian engagements and accountability processes. Several groups, some panelists noted, are deeply embedded within the local population and maintain close connection with local communities and power structures. A participant observed that, in her opinion, most groups have at least some familiarity with core IHL notions or principles. Other stressed that some actors have accepted to modify their practices or to refrain from using specific means and methods of warfare for political and image related reasons, fearing to be excluded by their constituencies or isolated from their international sponsors. Evidently, yet often forgotten, NSAG, as other any political actors, negotiate out of self-interest. **States**, on their part, remain, some argued, the most difficult actors to negotiate with, especially when access to NSAG depends on them. **Antiterrorism narratives** are now, according to discussants, permeating many situations of internal conflicts emphasizing the defence of State sovereignty and rejecting or impacting attempts from the humanitarian in engaging with NSAG.

Discussants reflected on the **types of engagement with NSAG** in such conditions. Given the diversity of the latter and their evolving structures, engagement with them may take different forms. Some participants emphasized that humanitarian actors should also recognize the value of continuing to engage engagements with NSAGs that are unable or unwilling to fulfill their obligations under IHL and other relevant frameworks. Others noted that with some actors, direct engagement with their command structure has limited impact. Humanitarian organizations prefer engaging in dissemination efforts aiming to the “foot soldiers” and surrounding communities. Most participants agreed that

none of the groups should be excluded from the outset and that humanitarian negotiators should in principle be ready to engage with any group willing to meaningfully discuss humanitarian requirements. Indirect engagement through communities, elders or other actors of influence, shall also be explored, other insisted. However, in many some cases, a profound gap has been identified between the professed or required acceptance of humanitarian action and the group's behaviour (related to the groups' strategic interests, different normative frameworks, distrust or negative experiences with aid organizations in the field). The challenges in terms of command and control within the NSAG were also highlighted, with negotiations at higher levels not always successful in influencing the behaviour of the whole NSAG structure.

The relationship of humanitarian negotiators with the **concept of neutrality** has been especially examined: should neutrality, as some argued, be regarded as a core requirement of all humanitarian negotiations, or rather, as other meant, as a tool to build trust (e.g. to gain access to civilians)? Or should one refer to impartiality with respect to the needs of affected populations? Is the requirement of neutrality pre-empting humanitarian negotiators to engage on violations of international norms, or are discussions on the conduct of hostilities part of a neutral dialogue on the humanitarian situation? Besides, are there situations where humanitarian negotiators can no longer be perceived as neutral when confronted with specific armed groups (such as those engaged in acts of genocide)? What about NSAGs listed under counter-terrorist measures? The discussion was left open as to these questions.

**Perception** of NSAGs by local communities and **self-perception** of the NSAGs are playing a key role in the interaction with relief agencies, as much as the material reality: "of course NSAG see themselves as Luke Skywalker and their opponents as Darth Vader". Equally, aid organizations, it was observed, often see themselves as a standard of humanity and equity, with limited attention to the actual perceptions of the NSAGs and local communities. Hence, humanitarians would need to be aware of their own biases toward armed groups, which can influence their understanding of the groups' motives and rationale. They should equally be informed, some insisted, of the perception of humanitarian action and actors by NSAGs, who are suspicious of foreign presence. As there is an overarching feeling among the international community that NSAGs are the "bad guys", it is hence important to go beyond one's own biases, misperceptions, prejudices and mind-sets. Conversely, as some participants noted, the perceptions by NSAGs of humanitarian actions can be influenced by declarations, decisions, personal attitudes, poor programming, wrong assessments, dubious neutrality, faulty policies, and lack of resources. Humanitarian negotiators need to take a distance from the narrative of their own organizations to understand the basis of the dialogue with NSAGs. They need, it was stressed, to be acutely aware that NSAGs often face constraints to fulfill their obligations.

In this context, a participant commented, the art of humanitarian negotiation is to untangle underlying prejudices, operational narratives, and mindsets about NSAGs. Many stressed the paramount importance to get a clear image of the nature of NSAG outfits, their mindsets, ideology, strategies, economy of violence, internal divisions and power games. Given the increasing number of internal armed conflicts involving a growing diversity of NSAGs (political, "jihadist", community-based, armed groups controlling territory, etc.), the **importance of in-depth contextual analysis** has been emphasized. In that regard, context analyses and pre-negotiation preparation, including the definition of tactical "red lines", are key instead of an all too frequent "let's see how it goes" approach. Proper anthropological and sociological insights when time and context allow, can help better understand their inner workings and cultural context (e.g. the authority of prophets in South Sudan and their restraint potential on NSAG actions).

Negotiators, it was further argued, have to assess the available **negotiating space** before engaging with NSAGs and expand this space. To that end, they need to spot a series of key counterparts



("gatekeepers", "decision-makers" and those who have real implementing power.) They further need to get the necessary support from influential stakeholders and opinion leaders within the constituency of the NSAG. In order to get access to these circles; humanitarian negotiators have to build trust with them, as many insisted. As it was also noted, humanitarian negotiators have to maintain **"walk-out options"** and to exploit any processes opening or re-launch opportunity. They need, as many voiced, to conduct a proper **analysis of current perceptions** of both humanitarian organizations and the NSAGs, identifying expectations and points of contention, and informing the development of negotiation strategies and tactics (e.g. *"is there really an option to walk out of negotiations without weakening one's position?"*). Such strategies, it was argued, must take into account the advantages and risks of involving national staff (cf. perception and acceptance). Some also observed that, in terms of leveraging and long-term implications, international staff should remain attentive and take the responsibility for the negotiation processes with NSAGs as these arrangements could represent a potential danger for remaining local staff.

Participants and panelists further acknowledged that humanitarian negotiators often face two parallel processes: externally negotiating with the NSAG and internally negotiating with the hierarchy and bureaucracy of their own organization on negotiation objectives, institutional strategy, etc. In particular, organizations should, they said, remain cognizant of the risk of being used by the NSAG to gain legitimacy through negotiations.

#### Expectations toward the Centre of Competence expressed in the related working group session:

Participants to the WG session on negotiating with NSAGs referred mainly to the need to develop robust analytical tools to:

- Distinguish different types of NSAGs and related challenges;
- Assess the role of communities as actors with potential influence on NSAGs;
- Develop practical tools to ascertain the level of acceptance and understanding of humanitarian principles by NSAGs;
- Determine the adequate angles and levels of engagement (direct or indirect) with fragmented or "rejectionist" groups;
- Assess NSAGs' self-perception, as well as their perceptions of aid agencies;
- Identify and respond to state concerns regarding the engagement with NSAGs;
- Explore ways to improve the security of frontline negotiators engaging with NSAGs;
- Study NSAGs' own experiences as frontline negotiators.

In addition, expectations were expressed in supporting in the development or improvement of implementation mechanisms to support NSAGs' compliance with IHL such as:

- Deeds of commitment with accountability provisions.
- Reports on implementation progress.
- Meetings with NSAGs on lessons learned and support regarding the implementation.

The Centre of Competence should further support the development of knowledge sharing and management tools that help to:

- Strengthen institutional memory on past interactions with NSAGs;
- Identify lessons learned across institutions and/ or regions;
- Establish information-sharing mechanisms among practitioners (e.g. via online platforms);
- Establish safe spaces for practitioners to share experiences on difficult issues.

## *b) Negotiating the Protection of the Medical Mission*

This second panel aimed at addressing the challenges and dilemmas arising when negotiating the protection of the medical mission. Organized through collaboration between the ICRC and MSF, it focused on a case study presenting MSF's recent experience in Yemen, which was commented on and questioned by discussants on the basis of their own experience and the one of their organization. Then, the wider audience — composed of experts and practitioners — was invited to intervene in the discussion.

The MSF case study in Yemen was presented by Teresa Sancristobal, Emergency Program Manager for Yemen at the MSF operational center in Barcelona.

The invited discussants included:

*Ali Naraghi*, Head of the Health Care in Danger Project, ICRC, Geneva.

*Emanuele Nannini*, Deputy Humanitarian Office Coordinator, Emergency, Venice.

*Enrique Steiger*, Director, Swiss Cross, Zürich.

*Esperanza Martinez*, Head of Health Assistance Division, ICRC, Geneva.

*Xavier Crombé*, MCUF Project, MSF, Lecturer in humanitarian studies at Sciences Po, Paris.

Facilitation: *Laurent Ligozat*, Deputy Director of Operations, MSF-Switzerland, Geneva.

On the basis of the case study on MSF's recent experience in Yemen, where belligerents have attacked several of the facilities they support over the recent months, discussants identified a need for sharing experience among peers, good as well as bad practices, and for gathering experienced medical professionals together to ensure the adherence to humanitarian principles and medical ethics at all times during a conflict. Some recalled existing tools that can be shared, while others insisted on the development of complementary new tools in specific domains related to humanitarian negotiation.

A shared concern among participants was the need for proper **context analysis** allowing a thorough understanding of belligerents' motives and rationale behind the attacks of medical facilities. More specifically — due to the evolution in warfare and the blurring of the notion of frontline itself —, it was argued that approaches to humanitarian negotiations have been influenced by the changing nature of warfare and where the frontline lays. In the case of aerial bombings, for example, interactions with conflict parties have changed significantly, pointing to multi-layered negotiation processes with the air forces involved, tactical planners, as well as, at times, weapons manufacturers and dealers, many of whom operate at large distance from the battlefield. There is a strong need to better understand the consequences of these changes for the security of the medical missions, especially in terms of communication, chain of command and leveraging. A common request concerned the mapping of interlocutors to ensure the protection of medical missions ("Where do we get the right phone numbers to stop or prevent attacks on medical missions? What are the practical tools needed on the ground? How can one improve the markings and reinforcement of hospitals? How can organizations raise awareness among belligerents for the need of demilitarized spaces around hospitals?").

The **need for better understanding the evolution of the negotiation settings** has been noted. In particular the evolution of the negotiation process, as negotiations develop on different levels ("geographically", following the chain of command, and "thematically", relating to political interests, development strategies and humanitarian concerns). Some argued medical professionals do not

always have the skills to conduct effective negotiations in such complex environments; professional negotiators and networkers should thus be deployed in the field; others maintained there is no need for external specialized negotiators, but new tools should be made available to build organizational and individual capacity.

It was noted that the security of medical professionals is further compromised by local interactions with **criminal groups**, in addition to belligerents. These actors should be better analyzed and protection measures implemented accordingly. The need for development of synergies in the field among medical agencies while liaising with the parties to the conflict has been stressed. The understanding of ways to gain momentum for such specific negotiations is also seen as key (e.g. after attacks organizations acquire legitimization and negotiating power, tragic events should bring together humanitarians to ask parties for necessary guarantees).

A **lack of models and best practices** has been identified, as well as a **need for sharing practical tools** for frontline negotiators to increase their capacity for successful negotiations in the field. The need for the development of a set of standard operating procedures, risk assessments and preventive measures, adaptable to specific contexts has been stressed, including a better definition of security benchmarks, minimum standards to ensure the protection of medical missions and a costs/benefits mitigation for each option. This may particularly benefit smaller organizations that lack the capacity for comprehensive assessments on the ground.

The debate further questioned **whether the humanitarian community already has the instruments** to ensure the protection of medical missions, and if all its members are informed about these instruments (*"Are the results of the instruments and their implementation properly shared?"*) As proper tools to facilitate the work of field negotiators still seem difficult to identify, it was suggested to start focusing on specific situations (e.g. effective need assessments, feasibility studies — for example on guaranteeing the safe referral of patients, the security of ambulances etc.).

#### Expectations toward the Centre of Competence expressed in the related working group session:

In the context of this discussion, the CoC is expected to serve a community of peers to:

- Share experience, in particular good and bad practices;
- Gather experienced medical professionals to ensure the adherence to humanitarian principles and medical ethics;
- Share practical tools for frontline negotiators to increase their capacity for successful negotiations in the field;
- Define a curriculum of qualities and competences of field negotiators;
- Coordinate with other existing and well-established coalitions of practitioners.

Further expectations were expressed in supporting the development of analytical and mitigation tools to:

- Map proper interlocutors to ensure the protection of medical missions;
- Better understand the evolution of warfare and the consequences on medical missions in war zones, especially in relationship with aerial warfare and the blurring of the notion of frontline. These tools should be adjusted to both the needs at the field (inside the hospital) and HQ levels;
- Better understand the evolutions within the negotiation space and its "geographical" and "thematic" dimensions;
- Reflect on possible misinterpretation and misuse of these tools.

Ultimately, the Centre of Competence is expected to support the development of negotiation and protection strategies to:

- Engage interlocutors efficiently in order to stop or prevent attacks on medical missions.
- Build capacities of humanitarian negotiators to successfully adapt their language and interaction to the different levels involved in the humanitarian negotiations.
- Gain momentum in negotiations, especially in the aftermath of tragic events.

### *c) Strengthening the Capacity of Humanitarian Professionals to Engage in Frontline Negotiations*

The objective of this third panel was to address specific challenges related to the professional development of field practitioners to engage in humanitarian negotiations and to explore different opportunities to strengthen their capacity and skills in these circumstances. It acknowledged the increasing role of national staff in humanitarian negotiation processes and the unequal access to policy and training tools for humanitarian negotiators.

The panel was composed of:

*Fadela Novak-Irons*, Head of Protection Unit, Global Learning Centre, UNHCR, Budapest.

*Zlatan Milišić*, Deputy Director, Policy and Program Division, WFP, Rome.

*Gerard McHugh*, President, Conflict Dynamics International, Boston.

Facilitation: *Prof. Doris Schopper*, Director, CERAH, Geneva.

The panel identified the **existence of significant gaps** in the professional development of frontline humanitarian negotiators, both at individual and institutional levels. Humanitarian organisations often do not recognise operational negotiations as a specialised field of expertise. The need to clarify and develop a common professional language across agencies and operations was deemed as central to create the necessary ground to engage in the professional development of humanitarian negotiators. In order to appropriately engage in professional development, a **common understanding of specific notions of humanitarian negotiation was seen as a key step**.

Another challenge within aid agencies relates to the creation and harnessing of an **institutional culture** that prioritises the build-up of negotiation methods and skills. The absence of such culture in many organizations (often taking negotiation capabilities of field practitioners for granted) was seen as problematic, hindering serious reforms in this regard. The panel identified the lack of understanding in some organisations of the need for building the capacity of field practitioners in terms of humanitarian negotiation: “We have to recognise negotiation as a critical space to explore, defining what one can achieve in complex environments”.

As repeatedly stated, effective negotiation is predicated on proper preparation and planning: “95% of the work needs to be done prior to the actual negotiation”. As a result, consideration of professional development must be centred on facilitating and fuelling more informed pre-negotiation preparations and planning, including with cross-sector approaches.

According to the panellists, **both technical skills and soft personal skills** should be further developed. The specific ‘architecture’ of professional development was addressed as a key component of effective and appropriate modes and means of professional development. A **multidimensional architecture of learning** is required to reach out toward frontline humanitarian negotiators, including field workshops, e-learning, peer exchange, mentoring, handovers, etc. A strong focus on soft skills

development was made with regard to the importance of establishing trustful relationships with counterparts on the frontlines, as well as the routine engagement with HQ in negotiation managements. Other issues discussed included: content of professional support; institutional support and opportunities; framing of negotiations; typology of negotiations and how this impacts professional development; types of support and the necessity of sustained engagement.

Expectations toward the Centre of Competence expressed in the related working group session:

In support of this agenda, the Centre of Competence is expected to:

- Develop professional development pathways for field negotiators that are tailored to their needs and flexible, i.e. composed of the necessary field workshops, e-learning, peer exchange, mentoring, etc. that reflect a consensus among humanitarian negotiation professionals.
- Facilitate the sharing of information among members of the community of practice on the external/partner-led professional development opportunities on humanitarian negotiations, eventually perform a “brokering” role/liaison/bridge between agencies on professional development.
- Develop and collate case studies from as broad a range of contexts as possible, which would be accessible for partners and organisations as learning tools.

#### *d) Humanitarian Mediation*

The aim of this fourth panel was to identify key issues of relevance for frontline negotiators when confronted with the perspective of mediating humanitarian outcomes between parties to the conflict. The discussion was built on the presentation of a case study on humanitarian mediation processes developed by OCHA and DRC in the Central African Republic (CAR). Panelists intervened in their personal capacity. The case study was further discussed by senior mediation specialists and expanded to the wider audience.

The case study in CAR was presented by:

*Jérôme Grimaud*, Protection, Access and Humanitarian Affairs Specialist, CAR.

*Line Brylle*, Armed Violence Reduction Advisor, DRC-DDG, Sahel.

*Ilyas Oussedik*, Humanitarian Affairs Officer, former OCHA, CAR.

The discussants included:

*Andrew Marshall*, Senior Advisor, European Institute of Peace, Brussels.

*Antje Herrberg*, CeO, MediatEur / Professor for Intl. Mediation, College of Europe, Brussels.

*Dennis McNamara*, Senior Humanitarian Adviser, Centre for Humanitarian Dialogue, Geneva.

*Enrico Formica*, Senior Mediation Officer, Mediation Support Unit, UNDPA/UNOG, Geneva.

*Julian Hottinger*, Senior Mediator, Swiss Federal Department of Foreign Affairs, Bern.

Facilitation: *Prof. Alain Lempereur*, Director of the Conflict Resolution and Coexistence Program, Brandeis University.

Introductory remarks were made to point out the fact that humanitarian mediations are carried out according to the same **principles** which guide all humanitarian actions, and in particular: neutrality, impartiality and humanity. One panelist underlined **key differences** between humanitarian mediation and negotiation processes, in particular that mediation aims at helping the parties find sustainable

solutions by themselves and that the mediator should therefore abstain from making comments or suggestions, as he/she is neither an arbitrator, nor a judge. This **role of the humanitarian mediator**, it was stressed, with no interest at stake and a mere facilitator of the dialogue between the parties was seen as distinct from the role of humanitarian negotiator, who remains by definition a party in the interaction with a specific objective and interest to achieve a desired outcome.

**Two practical case studies** related to the situation in the CAR were presented. One (Boda) related to tensions and violence between two communities and the second one (Bangui) between armed groups. The « Third Party Neutral Model » applied here by mediators is based on the approach that mediation should be a voluntary process and the importance of giving a clear voice to all concerned. In the cases presented, the humanitarian mediations were carried out with the aim to protect civilians, prevent further outbreak of violence and displacements.

The exchange between panellists showed **differences of appreciation** regarding the essence of humanitarian mediation (e.g. in relation to conflict prevention and mediation) and the importance of distinguishing humanitarian mediations from political ones. Some believed that drawing a clear line between the two domains was both unrealistic and undesirable in current conflict environments, and that a holistic approach encompassing both humanitarian and political mediation was often more successful in reaching the overall humanitarian objectives. Others argued that a clear distinction between political mediation and humanitarian negotiation was imperative to maintain a sufficient neutral space for humanitarian professionals to intervene, implying that mediation aimed at preventing violence was “political” in essence. This prompted a debate with the audience. It did, however, help in clarifying the importance of setting clear objectives to a humanitarian-driven mediation process beforehand and doing a thorough analysis of both successes and failures. Two specific concerns were raised: whether humanitarian and political mediations could run in parallel as independent, or whether there should be a sequence between them (first humanitarian then political processes). A second concern pertained to the risks of blurring the lines between the two vs. the risks of humanitarian mediators working in complete isolation of the political track.

The importance of training humanitarian negotiators to mediation techniques was stressed as well. Ultimately, there were **strong demands for the clarification** of the features, objectives and methods of humanitarian mediation, in particular:

- How can one define ‘humanitarian mediation’?
- What are the “red lines” of humanitarian mediation?
- Who should engage in humanitarian mediation? Is this becoming a new profession alongside political mediators?
- Are these processes short-term only as part of emergency response, or also on medium to long-term issues?
- How can one measure success of humanitarian mediation? Are the results sustainable?
- Does humanitarian mediation remain limited to protection/ prevention of violence issues or could it apply to other domains such as health, water, rehabilitation?

#### Expectations toward the Centre of Competence expressed in the related working group session:

Participants to the related WG presented a series of requests related to both conceptual works on humanitarian mediation and consensus building within the community of practice on such activities. In particular, it is expected that the CoC will:

- Develop short case studies on humanitarian mediation rooted in specific regions, examining successes and failures;



- Clarify the purpose, objectives and actors of humanitarian mediation processes;
- Clarify the dos and don'ts of humanitarian mediation, as well as "red lines" distinguishing humanitarian and political mediation processes;
- Confront practitioners with salient and recurring dilemmas (e.g. scenario-based debates);
- Be both a safe space for exchanges between practitioners and a depository of knowledge on humanitarian mediation;
- Create a mediation support unit and strengthen peer-to-peer support;
- Remain first and foremost field focused in its approach; and finally,
- Provide tools and methods to undertake humanitarian mediation efforts.

A major point was raised during the WG: the Centre needs to choose for the next Annual Meeting between cultivating ongoing debates about definitions and doctrine (to be avoided in the view of some participants), or cultivating an open exchange between humanitarian practitioners on their mediation roles occurring at times in an unexpected manner.

### *e) Negotiating in the Context of Integrated Response*

The objective of this panel was to single out specific challenges and opportunities related to frontline humanitarian negotiations in the context of integrated response. This was done through inputs by the panelists and comments from participants, comparing perspectives of both researchers and frontline practitioners, in order to identify concrete needs for which the Centre of Competence on Humanitarian Negotiation could develop tools or policy answers in the future.

The panel was composed of:

*Noorshir Noori*, Security Associate Access Team Member, WFP Jalalabad

*Nathalie Fustier*, Senior Humanitarian Affairs Officer, OCHA, New York.

*Mark Warne-Smith*, Civil Military Liaison Officer, WFP Rome.

*Michael Keating*, SRSG for Somalia and Head of UNSOM, Mogadishu.

*Jenny McAvoy*, Director of Protection, InterAction, Washington, DC.

Facilitation: *Dan Toole*, ret. Regional Director for East Asia and the Pacific, UNICEF.

In the view of many participants, **integrated responses can easily lead to a polarization** between political and humanitarian players, so the purpose of the panel discussion was to identify ways in which field based practitioners could be practically supported to conduct negotiations with NSAG as well through building upon common ground. The discussion was wide-ranging and diverse, and it became apparent from the interventions that diverse actors understand the concept of integrated response differently; thus a clearer definition of the types of integrated response might be beneficial as far as they impact the work of humanitarian negotiators.

It was suggested *"that the UN is quintessentially a political organization - with a **political agenda** established by the universal declaration of human rights and the UN Charter"*. One panelist observed that *"humanitarian issues are increasingly subsumed under a political pillar"* and, when this happens, humanitarians tend to *"cede their responsibility to political actors"* due to the perception that a political negotiation has *"clout and legitimacy"*. Relatedly, as another panelist noted, humanitarian actors have perhaps not sufficiently developed other non-political rationale, which can be brought to bear in their engagement with parties to conflict and other stakeholders. This then reinforces the *de facto* resort to political arguments rather than building maximum flexibility to adapt to the context and to engage the range of perceptions present among the relevant interlocutors. Furthermore, the

authority of managing an integrated response is often put under the control of the head of the political mission in the country. As a result, negotiations within this architecture pursue humanitarian issues within the framework of a political response to a crisis – or humanitarian issues are treated in parallel in a politically dominated process. In some countries, humanitarians have had to accept binding decisions by political actors that they, as humanitarians, would likely not agree to if they were a party to the negotiation. In an integrated mission, the SRSG's role is to interpret and implement Security Council mandates in a way that advances peace and security as well as human dignity. Humanitarians working within this framework are sometimes able to do things that other humanitarian actors cannot do and vice versa due to the relationship with and proximity to the political pillar of an integrated mission.

Other participants described the relationship between political and humanitarian negotiations as being *"at polar extremes"*, noting the advantages of keeping some distance between humanitarian and political processes as to avoid political interferences on the provision of life-saving assistance. The political arm of an integrated response might further benefit from 'plausible deniability' around some humanitarian operations/actions. In both cases it was vital for players across the political, humanitarian, security and human rights dimensions to have and to develop understanding of their different mandates and demonstrate professional respect for their divergent backgrounds and experience.

Some argued that humanitarians could in both cases use the *"bons offices"* of SRSGs to enable discussions on humanitarian access and protection with government leadership. It was acknowledged that too often humanitarians are focused on protecting *"their space"* from political leadership and that they are thus not focused on how they might effectively leverage their relationship with the political arm of the UN system to promote humanitarian outcomes. It was suggested that humanitarians should be much more conscious about the relationship they desire with the political pillar, and that an appropriate two-way relationship should be cultivated accordingly.

**Counter-terrorism measures** were discussed from the perspective of impacting integrated mission, and using the case of Afghanistan to illustrate this point, it was noted that staff from UNAMA was forbidden to talk to certain NSAGs. Others noted *«that negotiations with designated terrorists are not the end of the world and humanitarians are going to do it»*, since they are parties to the conflict and one should engage with them as such. Political actors can help socialize the idea of engagement with "extremists", and in Afghanistan, it took around 10 years for mainstream political actors to come to terms with the need to talk with the Taliban, while it was being done frequently by field-based humanitarians. In Somalia, one of the ways in which an even worse humanitarian crisis is being averted is through remittances. Counter-terrorism legislation, however, can threaten the flow of remittances. In such cases, political and humanitarian actors are well placed to make the humanitarian case to protect remittance flows – as it is a highly effective mechanism to reach many households.

Several panelists underlined the **importance of preparing negotiations, building trust and understanding the cultural/local context of negotiating partners**, which had been highlighted in other discussions too. In a number of cases, the availability of key reference and other documents in multiple languages (e.g. Arabic) was stressed as a necessary step to increase a common understanding across the negotiations. The panelists also stressed the importance of the choice of negotiators, emphasizing it was vital "to leave your ego at home" and choose the person best suited to the task when an integrated negotiation is to take place (e.g. someone who familiar political, humanitarian, human rights, security issues, etc.).

Participants noted that humanitarians sometimes struggle internally with a unified approach. Often, there are deep levels of mistrust among humanitarian organizations. In the current context, it was noted that humanitarian organizations often do not share information on country specific negotiations. Given political sensitivities, it was also acknowledged that in many instances records of the negotiation are not kept so that institutional memory is eroded and lost over time.

#### Expectations toward the Centre of Competence expressed in the related working group session:

Participants to the WG on this theme presented a series of expectations toward the Centre of Competence to:

- Contribute to the elaboration of a framework that encourages proper distribution of responsibilities when addressing humanitarian issues (i.e. establish clearer roles of humanitarian and political players);
- Develop country specific case studies that examine the strategic approach taken by a negotiating teams, and including the advantages of each set of actors;
- Determine ways to build trust and deepen strategic relationships both within and between humanitarian organizations, and between the political and humanitarian pillars of integrated missions and across multi-faceted response;
- Foster mutual respect among practitioners through a forum that enables humanitarians to share their frontline negotiation and mediation experiences;
- Create a safe space for cross-disciplinary and/or inter-organizational discussions, which brings together political, human rights, humanitarian and development practitioners. If appropriate, facilitate 'hard conversations' – and provide relevant advice on how to combine such agendas in specific contexts;
- Identify examples of where counter-terrorism constraints can be addressed within an integrated response and the overall negotiation architecture;
- Develop a system to house information on who negotiates what, and for what reason, including which organization is the most appropriate for negotiating certain issues. Such an approach could assist in the selection of a negotiation team with complimentary experience and skills that would include a mix of humanitarian, human rights and political profiles;
- Record historical negotiations and agreements reached so the information can be passed onto the next negotiators. This should include what worked and what did not;
- Provide opportunities to develop the capacity of individuals and organizations in frontline negotiation and mediation. This includes country level assessments of negotiation strategies;
- Develop and/or identify resources to enable a better understanding of cultural and historical context of a specific environment/area/country – including political, economic and social aspects;
- Identify the minimum framework of support/protection required for humanitarian negotiators. The Centre might provide a 'safe space' to develop informed strategies for the protection of civilians as an overarching principle of humanitarian negotiation.

#### *f) Impact of Gender and Other Factors of Diversity on Humanitarian Negotiations*

The goal of the panel was to reflect on the ways humanitarian negotiations can be influenced by gender and other factors of diversity. Through brief inputs the panelists compared perspectives of both researchers and frontline practitioners, in order to identify concrete needs of frontline negotiators, for which the Centre of Competence on Humanitarian Negotiation could develop tools or policy answers in the future.

The panel was composed of:

*Ashley Jackson*, Research Associate, ODI, London.

*Ekram El-Huni*, Independent Humanitarian Practitioner, Middle East & North Africa.

*Fadela Novak-Irons*, Head of Protection Unit, Global Learning Centre, UNHCR, Budapest.

*François Stamm*, ICRC, Head of Delegation, Washington.

Facilitation: *Federica du Pasquier*, Researcher, Harvard Humanitarian Initiative

Participants underlined from the outset that the conversation should be framed in terms of diversity, and include gender as one aspect of diversity. This will ensure a broader buy-in into the topic, given some sensitivities around the topic of gender, and the salient operational relevance of other traits of diversity, such as religion, ethnicity, age, etc. It is crucial to raise awareness about issues related to diversity. Participants observed that many, especially those belonging to the “dominant” groups (e.g. “westerners”), have never thought about how gender/age/religion/ethnicity etc. can impact negotiations. They are therefore often unaware of their own biases and how these are perceived. They also tend to underestimate the richness of including diversity in the planning of negotiations. If team leaders are to factor diversity in, they first need to become aware of it. Once practitioners become more aware of these various dimensions, they need to be explicitly factored into the strategic preparatory conversations for the negotiation.

The consensus amongst the panellists was that negotiation teams need to become better at **factoring various dimensions of diversity** when elaborating strategies for their negotiations. Humanitarian negotiators have become more diverse in the recent past, not only in terms of gender balance, but also in terms of nationality, ethnicity, age, marital status, and religious/cultural background, even command of language.

Participants agreed that the diversity of perspectives enables a more tailored and flexible approach to humanitarian negotiation with counterparts, representing a great asset for frontline practitioners. Yet senior management rarely tap into this richness. Rather than engaging in a horizontal team analysis, negotiator appointments are typically done on the basis of hierarchical connections alone, meaning that negotiations are engaged at leadership level, without considering the added value of negotiations across the team on the basis of such diversities: *“We need to think about what is the adequate profile for a given position, and about the best skills set for a particular context”*. Furthermore, participants stress the importance of personal rapport, empathy, and relationship in negotiation, which keeps the conversation going, particularly when informal: *“good negotiators are good at this, team leaders have to recognize these as assets, and employ them strategically”*.

Expectations toward the Centre of Competence expressed in the related working group session:

Participants to the WG on gender and diversity presented a series of expectations toward the CoC to:

- Include an awareness-raising component early on in the training courses of humanitarian negotiators, i.e. a session on the impact of diversity on negotiations, for instance.
- Support the facilitation of reflection/debriefs/strategic brainstorming on the impact of diversity on negotiations, e. g. by sending a facilitator to do this *in situ*; organizing workshops on this topic at the regional level; or inviting senior managers to workshops at the Centre where this would be an element.
- Creating a safe space for debriefing negotiations, as well as a support hotline for practitioners.
- Conducting more research (output: 2-3 page policy paper) on how diversity makes

negotiation teams better (“we shouldn’t be too confident this is a given for everyone”) and see how this might have happened in other high-intensity environments.

- Conducting research on perceptions of counterparts’ of negotiations, particularly in terms of diversity and identity.

### *g) Negotiating the Implementation of the Law*

The objective of this panel and working group was to address specific challenges and opportunities related to negotiating the implementation of international humanitarian, human rights and refugee law on the frontlines of conflict situations.

The panel was composed of:

*Yahya Khalil*, Operations Coordinator, Near and Middle East, ICRC, Geneva.

*Rob Grace*, Senior Researcher, Harvard Humanitarian Initiative, Boston.

*Maria Sommardahl*, Special Adviser, Training and Learning, NRC, Oslo.

*Betsy Greve*, Head of Evaluation Service, UNHCR, Geneva.

*Jean-Christophe Sandoz*, Deputy Director Law and Policy, ICRC, Geneva.

*Françoise Bouchet-Saulnier*, Legal Director MSF, Geneva.

Facilitation: *Julie Billaud*, Senior Analyst, Humanitarian Negotiation Exchange, ICRC.

This panel examined the intersection of negotiation practices and the implementation of international legal norms. Panelists stressed that it is not the law itself that is being negotiated, but its implementation in specific contexts. They agreed there are legal elements that remain beyond discussion. The debate should rather be about how to ensure the implementation of these norms and by whom.

While the law should not be the subject of the negotiation, panelists broadly agreed that approaching the law through its intersection with local norms could provide fruitful avenues of engagements. Social and legal norms exist in all communities, many of which are humanitarian in character (e.g., the right to life or the duty to assist people). These local norms can be a good starting point for a dialogue with belligerents. It can therefore be part of the role of humanitarian organizations to translate international legal regimes into a language that can be heard by the people they engage with, as well as to identify in local contexts common humanitarian traditions. This means that humanitarian negotiators may at times focus on the spirit of the law, rather than on its letter. Yet, arrangements emerging from these discussions should be reviewed by legal advisors as to ensure their compliance with international norms. In that sense, if international legal norms are not directly the object of the negotiation, they remain a valuable tool in framing and guiding negotiation processes.

One panelist indicated that interviews with over 50 humanitarian negotiators about their practices and perspectives on law and humanitarian negotiations show that the discourse of law in field negotiations, while being central in framing the objectives of the humanitarian negotiators, legal norms are rarely used with counterparts. The law often has limited relevance or persuasive force in field negotiations. References to the law can even be counterproductive. It is fairly common to incorporate normative frameworks that are more relevant to counterparts, but there is a risk of getting locked into a framework that inadequately covers certain humanitarian issues. In terms of capacity to negotiate, expatriate personnel may not have sufficient knowledge of the local norms and laws and, even when they have an adequate knowledge, these may not be credible. This leads to the

question of how to enhance the capacity of negotiators to use the law to their advantage in their negotiation and to assess which legal norms, local and international, will be useful in a negotiation.

One panelist reminded that humanitarian workers are seldom parachuted directly on the front line but that most of the time negotiations start at central level with representatives of Ministries, which often include their legal advisers in the discussion. The result of these negotiations will often predetermine the capacity of the humanitarian organization to access and work on the frontline. While it is obvious that different sets of arguments are to be used with soldiers at a checkpoint, good legal knowledge and preparation for the negotiation at central level are crucial. With regard to NSAG, while moral and humanitarian values are often used to convince the leadership of NSAG, a number of them are willing, for recognition or other purpose, to negotiate agreement or “deeds of commitment” to respect the law.

It was also mentioned that for organizations that discuss the conduct of hostilities with parties to a conflict, the discussion will focus on humanitarian consequences through the prism of the (dis)respect of the law and its interpretation.

Some panelists underlined that organizations such as MSF do not use the law by itself in its negotiations, but use its spirit to enlighten choices and dilemmas. They focus on translating the law into practical responsibilities and action. MSF also stresses the importance of acknowledging the limits of what humanitarian organizations can achieve - “If we are failing in Syria, it is not because we are bad negotiators.” Failure in negotiation should not create enhanced obligations to succeed, i.e. to make further compromises. Humanitarian negotiators must also stick to clear and non-ambiguous language that can be understood by all. Legalistic and dogmatic language can be counterproductive. The fact that aid organizations speak more and more of IHL violations and criminal accountability gives the sense that humanitarian action has become politicized, focusing on criminal responsibilities rather than the provision of life-saving assistance. A participant observed the importance of using IHL as an enabler rather than a list of prohibitions, and to present IHL principles in a way that can be perceived as serving the interests of all the parties.

Panelists underlined further that negotiations are multisided. They not only take place with the authorities or NSAG, but also with all those involved, including refugees, host communities IDPs. The fact that humanitarian actors tend to negotiate separately with their multiple interlocutors can create incoherence. It is important to recognize that communities can and do negotiate for themselves. Humanitarian negotiations, it was observed, do not rely so much on concepts and tools, but more on the proximity of negotiators with the context in which humanitarians and their counterparts operate. It was underlined that affected communities are negotiating their access to food and services for themselves every day and that aid workers must reflect on how they can support that kind of negotiations. It was suggested that trust and credibility are crucial and that speaking the language of counterparts, relating to common social or cultural norms might facilitate the negotiation. Hence the foreign manager of national teams is not always the right negotiator.

#### Expectations toward the Centre of Competence expressed in the related working group session:

Participants underlined the potential role of the Centre of Competence should be to:

- Serve as a depository of knowledge on core legal norms most used in negotiation, as well as a platform for information exchange on the dilemmas of negotiating the implementation of the law, beyond the annual meetings. In particular, the Centre of Competence should play a central role in capturing and analysing experiences in negotiating protection arrangements. It should support the development of a community of practice in this sensitive area by enhancing a culture of trust among practitioners, actively bringing humanitarian negotiators together with their own cultural specificity and legal traditions.



- Enhance the capacity of frontline negotiators to ‘use the law’, and to contribute to the respect existing local norms (national, customary, traditional, etc.), while raising awareness of the potential confusing impact of “legal pluralism”. It should further support the ‘use’ diplomatic and political actors as part of negotiation strategies, as well as underline the potential risks.
- Consider the development of case studies of political and humanitarian interactions, and work on the development of contextual and cultural analysis models tailored to specific contexts. It should identify best practices in the use of “norms”, local application, domestic law etc.
- Consider ways to facilitate the distribution of legal resources for humanitarian negotiators, particularly in local languages (especially Arabic). It should provide direct support to frontline negotiators (coaching / mentoring, hands-on assessment, particularly for local negotiators with on the ground support and coaching) and consider establishing a clearinghouse for peer review requests and offerings, as well as training for peer reviewers, mentors and coaches.

### 3. Presentations

#### 3.1. How to build capacity of Hum. Organizations to negotiate? (David Fairman<sup>3</sup>)

The objective of this presentation and discussion was to consider how humanitarian organizations can build organizational competence to negotiate, integrating capacity building for individuals in a broader framework of organizational strategy, procedures and supports for negotiators. Defining negotiation as “*any process by which two or more parties, with a mix of conflicting and compatible interests, seek a mutually acceptable exchange to reach a voluntary agreement on a decision or transaction*”, D. Fairman offered a distillation of key negotiation dilemmas for humanitarian organizations:

- **Principles vs. practice:** *Humanitarians shouldn’t compromise humanitarian principles to gain access, yet partial access may be all that belligerents (or donors, etc.) allow.*
- **Constructive ambiguity vs. organizational coherence and learning:** *You don’t ask and we don’t tell; so how can we orchestrate strategy and roles? How can we learn together?*
- **Situational judgment vs. standard negotiating procedure:** *Which elements of negotiation strategy can be specified in guidance, or explicitly delegated, and which must be dealt with case by case?*

Based on international experience in many organizational contexts he suggested following principles:

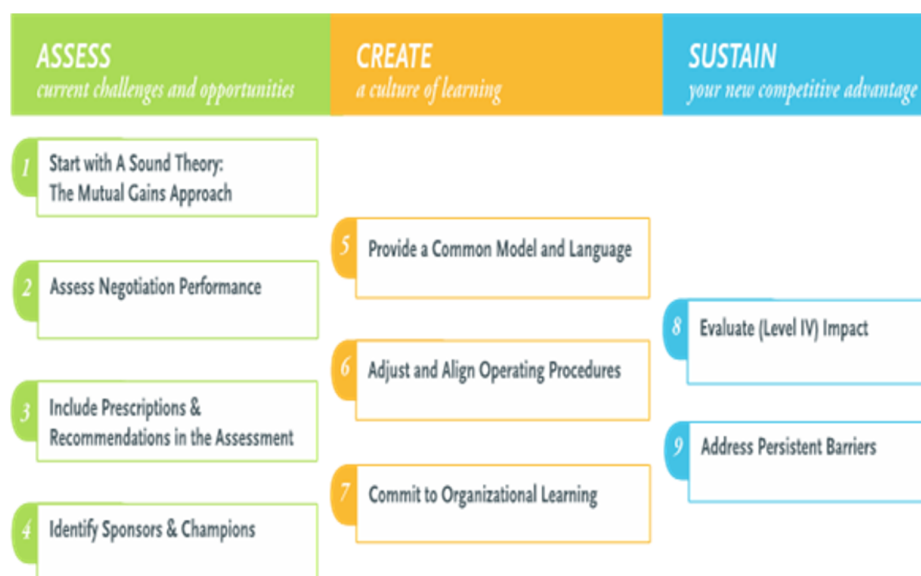
- Negotiation is an *organizational* capability, not only an individual skill.
- Training (alone) is usually a very weak intervention.
- Interventions need to be grounded in a theory of negotiation and a theory of how to help negotiators improve.
- Improving negotiation outcomes requires:
  - honest self-assessment,
  - tailored interventions to address key challenges and build on strengths,

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<sup>3</sup> David Fairman is Managing Director, Consensus Building Institute and Associate Director, MIT-Harvard Public Disputes Program, Cambridge, USA

- sustained commitment to follow through,
- Taking a more holistic and strategic approach need not be more expensive and is likely to produce (much) higher impact over time.
- Building systems for continuous learning creates a powerful engine for improvement over time.

Humanitarian organizations may develop ways to assess their current negotiation capabilities, challenges and opportunities; create systematic negotiation practice and culture of organizational learning; and sustain both practice and learning over time, by using the following diagram.<sup>4</sup>



Finally, the participants were invited to consider the following questions:

1. How can humanitarian organizations provide strong recognition of and support for negotiation as a key competence, while maintaining constructive ambiguity on their specific negotiations?
2. How can organizations develop vertical coherence (field to HQ) on negotiation strategy, while effectively delegating authority for individual negotiations consistent with the strategy?
3. How can multiple humanitarian organizations operating in the same environment coordinate negotiation strategies based on common and complementary capacities, while still competing (in some contexts) for resources and influence?

Participant comments supported the idea that the Centre could usefully pursue these organizational questions, involving both frontline negotiators and managers at country and global levels.

### 3.2. On the Centre of Competence on Humanitarian Negotiation (Claude Bruderlein<sup>5</sup>)

The 2016 Annual Meeting marks the launch of a new Centre of Competence as a joint initiative of the Strategic Partnership on Humanitarian Negotiation composed of UNHCR, WFP, MSF, HD and the ICRC. Scheduled to start its activities in early 2017, the mission of the Centre of Competence is geared toward field practitioners engaged in operational negotiations providing concrete opportunities to share and analyze their negotiation practices, build their capacity to address

<sup>4</sup> This approach is detailed in H. Movius and L. Susskind, *Built to Win: Creating a World Class Negotiating Organization*, Harvard Business Press, 2009.

<sup>5</sup> Claude Bruderlein is the newly appointed Director of the Centre of Competence on Humanitarian Negotiation. He is also the head of the Humanitarian Negotiation Exchange at the ICRC.

recurring challenges and dilemmas of humanitarian negotiation, enhance their critical thinking as part of negotiation processes, as well as foster peer-to-peer exchanges across agencies and regions in a safe environment. Established jointly for a first period of five-years, the Centre is staffed by professionals from the respective Partner agencies and administered by the ICRC in Geneva. The Centre works in close collaboration with the Strategic Partners offering country-specific assessments, induction and policy workshops on humanitarian negotiation in their context, and peer-to-peer exchanges. It also works in cooperation with ATHA/Harvard in the provision of regional advanced field workshops on frontline humanitarian negotiation to professionals from the UN, INGOs, national NGOs and the Red Cross Movement. It finally organizes the Annual Meeting of Frontline Humanitarian Negotiators, the next iteration of which will take place in October 2017. The activities of the Centre of Competence are open to all professionals and experts working on frontline humanitarian negotiations.

Claude Bruderlein underlined that the Centre of Competence is built on the understanding that humanitarian negotiation processes are inherently personal, contextual and confidential in nature. The mission of the Centre of Competence is to offer practical support to humanitarian negotiators in the elaboration of negotiation strategies and tactics in general, and not to take part to specific negotiation processes. However knowledgeable, external actors such as the Centre of Competence should not substitute the roles of the frontline negotiators and managers in designing and implementing an appropriate negotiation strategy in their context. Hence, the Centre will refrain from engaging directly or indirectly in humanitarian negotiation processes, setting priorities in the particular context or proposing coordination arrangements among agencies. It should focus its attention in building the capacity of humanitarian negotiators through the sharing of experience and perspectives across agencies, contexts and time. The measure of success of the Centre is the sense of empowerment of frontline humanitarian negotiators, both individually and collectively, to make informed and discerning strategies while engaging in increasingly complex, volatile and politicized environments.

### 3.3. Tactical Tools and Methods: “The Naivasha Grid” (Omar Odeh<sup>6</sup>)

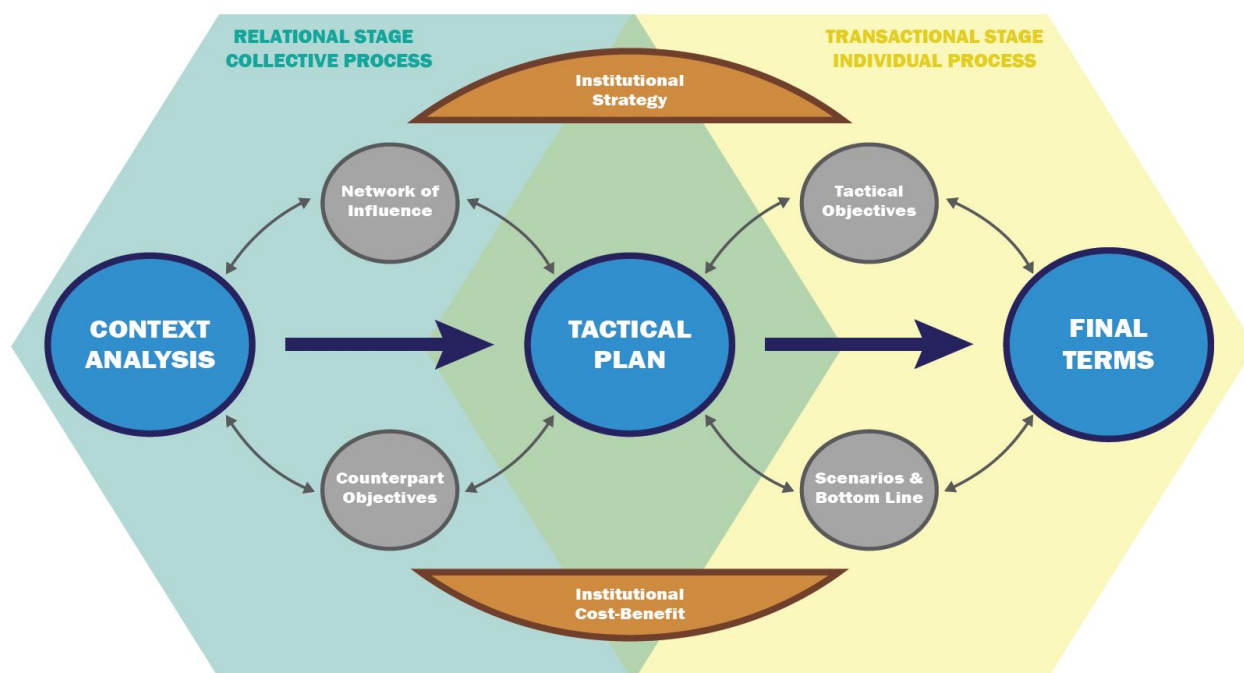
The objective of the session on tactical negotiation tools was to provide an overview of an analytical framework for the planning and evaluation of frontline negotiation. The framework presented was the “Naivasha Grid”: a model of the humanitarian negotiation process. The model proposes a three-step process (Context Analysis, Tactical Planning and Final Terms) with four tactical tools that inform these steps. Two of these tools, Network of Influence and Counterpart Objectives apply to the 'Relational Side' of the model that includes Context and Tactics. Two other tools, Tactical Objectives and Scenarios and Pathways apply to the 'Transactional Side' that includes Final Terms and Tactics. This central process and tools is framed by two broader factors: Institutional Strategy and Institutional Cost-Benefit. The model implies an overall logic of progression and iteration of a negotiation system or architecture.

Discussion of the model focused on the distinction it implied between humanitarian negotiation and commercial negotiation. Participants questioned how the concept of 'red lines' fit into the model (at the intersection of Cost-Benefit, Scenarios and Final Terms) and whether such firm red lines really exist in the humanitarian field. Other participants questioned the hybrid nature of the model (including a relational and a transactional side) and wondered whether in fact a completely new paradigm was needed for humanitarian negotiation. Finally, the issue of confidentiality in negotiation was raised; the presenter explained that this was partially captured by institutional strategy but also

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<sup>6</sup> Omar Odeh is Senior Policy Associate at the Humanitarian Negotiation Exchange at the ICRC.

needed to be integrated in the overall agency planning and not only in negotiation practice. Participants expressed general interest in the tool and were open to the possibility of field-testing it.



## 4. Final Observations and Summary of Expectations of Participants

### 4.1. Final Observations on the Deliberations

The first *Annual Meeting* provided an opportunity to gather informally a group of experienced professionals engaged in frontline humanitarian negotiation to review current challenges and dilemmas arising across their practices. This gathering focused on field practices as compared to a conceptual or academic analysis of humanitarian negotiations. It aimed to open a space for critical reflections on this practice to support peer-to-peer exchanges on the dilemmas encountered in the field.

While several of the topics would have required more time to deliberate, common observations have emerged across the seven themes on humanitarian negotiation practices. Some of these observations delineate a clear vision of this emerging professional domain:

- Humanitarian negotiators are confronted with increasingly complex environments requiring new capacity and resources to analyse conflict situations, interests of counterparts and influential networks;
- Humanitarian negotiations are multifaceted engagements, reaching out to counterparts and their constituencies, in particular local communities. They should draw also from local norms and networks to build ownership around humanitarian requirements and proposed arrangements;
- Legal norms play a critical role in framing humanitarian objectives and expectations. However, such norms may in certain contexts hinder the ability of frontline negotiators to establish a trustful dialogue with counterparts, as a number of them can perceive these norms as politically motivated or one-sided. Humanitarian negotiators should therefore also be able to translate international norms in current contexts, using local norms and values, as a way to explain their importance in achieving greater protection of affected populations;
- Frontline humanitarian negotiators should remain cognizant of the perceptions of counterparts and local communities regarding the potential political dimensions or implications of humanitarian activities. They should work to alleviate these perceptions and not ignore them, especially when they affect the perception of neutrality and impartiality of humanitarian actors.
- There seems to be a critical gap in terms of the professional development of humanitarian professionals engaged in operational negotiations, particularly at the field level where few to no opportunities exist to reflect on current negotiation practices. There also seems to be a lack of negotiation culture within aid agencies leaving frontline negotiators often isolated and under-resourced;
- A central observation of the participants related to the importance of sharing negotiation experiences across the community of practice, positive experiences as well as failed attempts, so as to learn collectively ways to improve negotiation practices and outcomes;
- In this context, humanitarian negotiators would benefit from further elaboration and dissemination of common analytical and planning tools to help them prepare negotiation processes and share experiences among peers in a more systematic manner.

- Furthermore, humanitarian negotiation practices should be the object of selected case studies and comparative analyses to identify recurrent challenges and dilemmas and to facilitate reflections among peers;
- There seems to be significant confusion surrounding humanitarian mediation as a process to enhance humanitarian outcome at the community level. Humanitarian mediation processes was not sufficiently defined in the view of many participants, becoming at times amalgamated to political mediation processes involving international mediators, and at other time to humanitarian operations designed to protect the life and dignity of vulnerable populations while preventing the occurrence of further violence on the frontlines. This confusion raised considerable anxiety among participants as political mediators and humanitarian negotiators see their practice as mutually exclusive and insist to delineate clearly these two domains, while others easily merge the two arguing that humanitarian outcomes have become an integral part of the political objectives of the international community. Likewise, many argue that humanitarian diplomacy has entered political fora, leveraging the presence and networks of humanitarian actors to urge parties to changes their behaviours in order to prevent violence in the future. While participants recognized the importance of mediation skills, discussions on humanitarian mediation will need to be brought at the field level in contexts where humanitarian negotiators are most interested to develop such skills.
- Confusion of roles and mandates also permeated discussions on negotiating in integrated settings. Participants acknowledged the growing pressure to align humanitarian efforts along integrated strategies involving security/ counterterrorism, political and developmental objective. Humanitarian negotiators also see the risks of associating neutral action with political agendas of the parties to the conflict while acknowledging the central role of humanitarian principles in guiding humanitarian action.

## 4.2. Summary of Expectations of Participants toward the Centre of Competence

The deliberations at the Annual Meeting have also served as a basis for the development of the programmatic agenda of the Centre of Competence. The following section summarizes these expectations expressed by the participants and do not entail a consensus on these expectations.

### *a) Development of common analytical and planning tools for humanitarian negotiators.*

Participants expressed significant interest across panels and working groups in the development of practical tools to:

- Analyze and plan humanitarian negotiation processes in a more systematic manner;
- Distinguish different types of counterparts and negotiations;
- Assess the role of communities as actors of influence in humanitarian negotiations;
- Enhance the proper and contextual use of the law and legal frameworks;
- Support the leveraging of diplomatic and political actors as part of negotiation strategies, as well as underline the potential risks.



### *b) Production of case studies related to humanitarian negotiation.*

Participants recommended the capture and analysis of negotiation practices through case studies to:

- House structured and accessible information on historical humanitarian negotiations and agreements organized by agencies, contexts, actors, objects as well as strategies, so the information can be passed onto other relevant practitioners;
- Examine strategic approaches taken by negotiating teams in specific country situations, including the advantages of each set of actors;
- Reflect on implementation mechanisms of international norms such as deeds of commitment with accountability provisions as well as reports on implementation progress.

### *c) Sharing of experience and perspectives*

Building on the experience of the *Annual Meeting*, participants recommended specific attention toward establishing informal spaces for practitioners to share experiences on past and current challenges for the purpose of:

- Supporting the development of a community of practice by enhancing a culture of exchange and trust among practitioners; actively bringing humanitarian negotiators together with their own cultural specificity and legal traditions;
- Identifying lessons learned across institutions and/ or regions through peer-to-peer exchanges;
- Creating an informal space for cross-disciplinary and/or inter-organizational policy exchanges, which brings together political, human rights, humanitarian and development practitioners. If appropriate, facilitate ‘hard conversations’ among stakeholders – and provide relevant advice on how to combine such agendas in specific contexts;
- Establishing a clearinghouse for peer review requests
- Offerings as well as training for peer reviewers, mentors and coaches;
- Establishing information-sharing mechanisms among practitioners.

### *d) Support to the Professional Development of Humanitarian Negotiators*

The Centre of Competence is expected to support the professional development of humanitarian negotiators through:

- The development of practical learning tools that reflect a consensus among professionals;
- The elaboration of light and flexible professional development pathways for humanitarian negotiators composed of field workshops, e-learning, peer exchange, mentoring, case studies, etc.;
- The direct support to frontline negotiators (coaching / mentoring, hands-on assessment, particularly local negotiators with on the ground support);
- The provision of legal resources for humanitarian negotiators, particularly in local languages (especially Arabic);
- Building capacities of humanitarian negotiators to successfully adapt their communication and interaction to the different levels and contexts involved in humanitarian negotiations;
- The elaboration of a list of qualities and a curriculum of competences of field negotiators;
- The pooling of information among members of the community of practice on the external/partner-led opportunities regarding professional development on humanitarian

negotiation, eventually the “brokering” role/liaison/bridge between agencies on professional development.

In terms of **humanitarian mediation**, the Centre of Competence is expected to further:

- Clarify what is humanitarian mediation
- Clarify the purpose, objectives and actors of humanitarian mediation processes;
- Develop tools and methods to undertake humanitarian mediation efforts;
- Develop case studies on humanitarian mediation rooted in specific regions, examining successes and failures;
- Clarify the dos and don'ts (red lines distinguishing humanitarian and political mediation processes).

### *e) Contributions to Policy Discussions*

The Centre of Competence is expected to support the contribution of humanitarian negotiators to policy discussions based on their experience on the frontlines through:

- An empirical study of the evolution of the negotiation space and its "geographical" and "thematic" dimensions;
- The study of counterparts' own experiences of dealing with humanitarian organizations, in particular NSAGs;
- An assessment of the evolution of warfare in particular contexts and how it affect negotiation processes and outcomes;
- The identification of the ways to build trust and deepen strategic relationships both within and between humanitarian organizations, and between the political and humanitarian pillars of integrated missions and across integrated response.

## 5. Next Steps

The Centre of Competence will design a set of proposed activities based on this report and additional survey to be presented to the Strategic Partnership and discussed at the next meeting of the Liaison Committee of the Strategic Partnership on Humanitarian Negotiation in early 2017. Participants to the *Annual Meeting* will be regularly updated on the development of the activities of the Centre of Competence. They will be able to join and contribute actively to the various working groups under the auspices of the Centre's Development Committee.

**The organizers wish to thank warmly all the participants for their active contributions to the success of the first Annual Meeting of Frontline Humanitarian Negotiators, especially facilitators, panelists, rapporteurs and note-takers. They also wish to express their sincere gratitude to the HCR, the HD Centre, the ICRC, MSF and WFP, as Strategic Partners, as well as Swiss Federal Department of Foreign Affairs for their active support and continued guidance in this initiative.**

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