



# **HUMANITARIAN NEGOTIATION AN OVERVIEW**

## CHAPTER 1 WHAT IS HUMANITARIAN NEGOTIATION?

The overall purpose of humanitarian negotiations is to ensure the impartial protection of, and the provision of assistance to, civilians affected by armed conflict and other people rendered *hors de combat*, as stipulated by international humanitarian law, human rights law and refugee law. The four key characteristics of humanitarian negotiations are thus that they are conducted:

- **by humanitarian actors**, such as members of appropriately mandated and impartial organisations like UN agencies, NGOs or the International Committee of the Red Cross (ICRC);
- **for humanitarian objectives**, including humanitarian access, protection, assessment and assistance, as set out in international humanitarian law;
- **in countries affected by armed conflict**, either of an international or non-international character; and
- **with the parties to the conflict**, that is, those with power and responsibility for the conduct of war, for the humane treatment of civilians and those *hors de combat* and for the distribution of assistance.

### Negotiating What?

International law obliges governments to grant the people living on the territory under their control access to assistance and protection. In cases where they fail to fulfil their obligation, humanitarian action seeks to prevent, limit and put an end to the violation. Frequently, therefore, humanitarians have to negotiate with respect to one or a combination of the following: assistance and protection programmes, including their content, timing and targeting; and access as a precondition for any kind of humanitarian action.

In many cases, access is the most challenging and difficult factor to negotiate. The UN Emergency Relief Coordinator has made access the first action point of his 'road map on the protection of civilians', which establishes a shared agenda for, and a commitment to action among,

humanitarian players.<sup>1</sup> In his briefing to the UN Security Council, he emphasised that, without access, humanitarians fail to meet their responsibility to protect.<sup>2</sup> Table 1 defines each of the key objectives negotiated by humanitarians.

ACCESS	ASSISTANCE PROGRAMMES	PROTECTION PROGRAMMES
This is the legal guarantee that protected persons must have access to the protection and assistance they need when they need it. It largely involves the free and unimpeded movement of people to relief services or the free movement of humanitarian agencies to reach people who are trapped, unable to move or detained. <sup>3</sup> In both circumstances, access enables an impartial assessment of, and response to, people’s needs and is thus often the precondition for any humanitarian action in a particular region.	They aim to provide specific relief items to meet the physical, social, economic and spiritual needs of protected persons as defined under international humanitarian and human rights law. Assistance usually includes the provision of nutrition and/or health services, including the distribution of food items, construction or repair of water supply systems or medical facilities and training of healthcare staff. <sup>4</sup> Such aid can be provided directly by a humanitarian agency itself or indirectly by supporting governments, occupying powers or other bodies already operational in the area.	They aim to ensure “full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law, and refugee law.” <sup>5</sup> In particular, protection refers to the means by which humanitarian agencies alert, advise, monitor and insist upon the responsibility of the warring parties and other states to prevent civilian suffering and the abuse of those now <i>hors de combat</i> . <sup>6</sup>

Overall responsibility for a humanitarian negotiation does not normally lie with a single individual. Negotiation objectives and corresponding strategies are best developed in collaboration with others in any organisation and also with relevant people outside of the negotiating organisation. It is common – and desirable – for senior, medium and lower level staff members all to be involved in formulating the negotiation strategy and in negotiating the same objectives at their respective levels.

SUBSTANCE	ACTORS	EXAMPLE
<b>HIGH-LEVEL STRATEGIC</b>		
Negotiate organisation’s entry into an armed conflict. Determine the extent of the organisation’s operational presence and set general parameters for its operations in terms of mandate or mission (health, food, detainees, refugees), geographical coverage (area and populations), lines of reporting with respect to the relevant authorities (ministerial liaison), freedom of movement (travel routes and timings) and liaison with military elements. These negotiations may take months or years.	Senior humanitarian staff negotiating with one or more parties to the conflict at the highest political level of the state.	Negotiations with senior national authorities to start operations or to agree on the principles and procedures governing humanitarian action in the conflict zone.
<b>MID-LEVEL OPERATIONAL</b>		
Negotiate a set of practical and effective daily activities that is in line with the general strategic agreement and that is acceptable to all parties and improves the lives of people.	Programme or project level humanitarian workers negotiating with regional or district level authorities.	Negotiating with a military commander of a conflict zone to define the duration and frequency of regular access to populations; negotiations with Ministry of Health officials to set objectives for a public health assistance strategy involving the sites of new wells and the dates of urgent immunisation campaigns for children in villages and camps for internally displaced persons (IDPs).
<b>GROUND-LEVEL FRONTLINE</b>		
Sudden, reactive and often also high-risk negotiations requiring quick decision-making in the face of unexpected developments.	Programme or project level staff negotiating with junior level state and armed group authorities or community leaders.	An unexpected influx of IDPs, a serious deterioration of humanitarian conditions following a military attack, a increased threat to the security of humanitarian staff, checkpoint negotiations to ensure the free and safe passage of humanitarian assistance or discussions with a village leader who is refusing entry to a place of distribution previously agreed to in upstream strategic and operational negotiations.

### Typical Levels of Humanitarian Negotiation

Humanitarian negotiations usually take place on three levels: a high or strategic level; a mid or operational level; and a ground or frontline level. These levels differ according to the substance and actors of the negotiation. Table 2 describes these differences and illustrates them with examples.

Most of the negotiation guidelines in this book can be generally applied to all three levels, although they will be most useful to operational and frontline negotiators. If you are interested in more specific examples and recommendations concerning these two levels, please see Annexe II.

## CHAPTER 2 THE PARTICULAR CHALLENGES OF HUMANITARIAN NEGOTIATIONS

Most negotiations between human beings have similar general dynamics whether they are personal negotiations between a parent and a child or more general commercial, legal and political negotiations. Usually, two parties negotiate because they feel that they can gain something by interacting. Negotiation theorists use the term *interdependence*<sup>7</sup> to describe this desire or need that parties feel to engage with each other. Whether the two parties achieve their objectives often depends on how they perceive one another, to what extent they can predict each other's actions, or how much influence they can exert over one another. It is fair to say, though, that the context and goals of humanitarian negotiations differ in several ways from such generic negotiation scenarios.

### Box 1: A Little Bit of Negotiation Theory ...

#### Interdependence

Individuals willingly enter negotiations if they expect to gain more than their *bottom line*. For example, someone selling a car will only negotiate on prices above a certain value. This value depends on two elements. First, the subjective appraisal of the seller: his/her belief that the car has a certain market value. Second, the *fallback options* available to the seller.<sup>8</sup> For instance, if the seller must leave the country in a hurry and faces the alternative of abandoning the car, he/she will be ready to accept a price even lower than his/her initial appraisal. Interdependence, therefore, means that two parties can find common ground, or that their bottom lines (made up of a subjective and a contextual component) are within a common range.

#### Rejection, Resistance and Resentment

Interdependence often does not exist in humanitarian scenarios. In many instances, humanitarians are simply not wanted by warring parties that

are determined to win their fight at all costs, harbour grave suspicions about interfering outsiders or feel that humanitarian obligations will compromise their political and military objectives. Recurrent killings of humanitarian workers make this shockingly evident.

Humanitarians feel increasingly rejected by their counterparts:

“The environments in which humanitarians operate are increasingly hostile and without concern for humanitarian values. With economic interests prevailing and governments or armed groups caring less about their moral image ... humanitarians are often not even granted the space to start negotiations.”

*(Aid worker talking about experiences in the Great Lakes region)*

Humanitarians lack power over the territory and people they want to assist and protect and whether negotiations take place often depends, therefore, on their counterparts' willingness to receive them. In situations where counterparts believe that they will be able to achieve their objectives more effectively without negotiating, humanitarians can only try to *persuade* them to come to the table. Persuasion involves many of the same activities as negotiation and good negotiators are usually also good persuaders. The guidelines described in parts 2–5 of this handbook are thus applicable to both situations.

### Concluding Only Second Best Agreements

The best agreement a negotiator could possibly aim for is a principled agreement. This means that both parties can achieve their objectives without having to make concessions.<sup>9</sup>

Although often impossible to achieve, many humanitarians and their counterparts favour principled agreements:

“Ideally, humanitarian negotiation is a dialogue in a more or less conflictual situation where the opinions of both sides are considered and where finally, when leaving the discussions, each party has

the impression that their point of view has been taken into account. It is a dialogue where there is neither a winner nor a loser.”

*(Aid worker reflecting on experiences in West Africa)*

“A successful humanitarian negotiation is a situation where one frankly and openly arrives at equilibrium. Each side has to recognise its responsibilities.”

*(Military representative in West Africa)*

“A good humanitarian negotiation is one that makes everyone smile. It is a negotiation that brings stability to our relations. Each party has to have the impression to have gained something.”

*(Civil servant in West Africa)*

In humanitarian situations, however, there are often real obstacles to obtaining principled agreements because the values and interests they defend – legal norms to protect and assist everyone – are often profoundly incompatible with those of their military and political counterparts. For example, imagine you are operating in a city in which four armed groups of child soldiers are active. You go to the local head of these groups and ask that they be disbanded. The overriding interest of the local leader of the armed groups is to win a war, while the humanitarian concern is to protect children from that war. Finding a creative way to reconcile this conflict of interests that meets both the needs of the children and those of the military commanders may not be possible, or legally and morally unsatisfactory from a humanitarian standpoint.

If principled agreements cannot be reached, the parties in typical negotiation situations, such as in business, may often agree to a compromise. However, humanitarians may often not be able to accept compromise. Finding a middle ground may require that humanitarians make intolerable and tragic concessions or satisfy illegal and immoral interests. Imagine, for instance, that the local head of the four armed groups mentioned above shows some interest in your concerns. For military reasons, he/she is only willing to disband one group and feels that he/she is being very reasonable in agreeing to do so. Given these starting

positions, if you negotiate to reach a compromise, two groups instead of one may be disbanded. But such an agreement still leaves many children unprotected. Aid workers are thus bound to be dissatisfied to some degree when meeting their counterparts half way because there is likely to be tragedy in any humanitarian compromise.

In many instances, humanitarians may feel, therefore, that they face a win–lose scenario, necessitating a hard-line approach and an all out effort to win and prevail over the other side.<sup>10</sup> But, unfortunately, humanitarians do not usually have the requisite power to adopt such an aggressive stance. Experience also shows that agreements reached through coercion seldom lead to durable arrangements on the ground as they are often contested. The use of hard-line tactics by an agency or individual can also be remembered with hostility for a long time to come and prevent good negotiations in future. As a result, it will often be the humanitarians who are the losers in a win–lose scenario.

Humanitarian workers often consider it impossible to achieve win–lose agreements:

“In a win-lose scenario, we are going to be the losers. As humanitarians, we simply do not have the levers to win.”

*(Aid worker sharing experiences in Southeast Europe)*

“Going for a win-lose agreement rarely plays out in our favour. In most cases, we are the losers. But even if we do win, our counterparts will always resent and impede the implementation of the agreement and we can be sure there will be security incidents.”

*(Aid worker reflecting on experiences in South Asia)*

In sum, humanitarians often find themselves between a rock and a hard place. On the one hand, they feel frustrated by apparently mutually satisfactory agreements for ethical reasons. On the other hand, they lack the means to conduct effective win–lose negotiations and risk spawning counterproductive outcomes if they play hard.

Tragically, this is why many humanitarian negotiations fail. Or, even if they succeed to some degree, they cannot be celebrated as an unambiguous success. Negotiations fail or are protracted in many other professional areas too, but the consequences are not always as disastrous as they are

when humanitarian negotiations do not succeed. Delayed agreements or partial achievements still mean death, suffering or lack of protection for many people whose needs were great before the agreement was reached or who still lie beyond the reach of the latest deal. Humanitarian negotiators live, at most, with the reality of second best agreements and highly compromised notions of success. Nevertheless, though, second, third or fourth best results still save lives, offer protection to people who are not yet affected and leave the door open to incremental progress.

## Box 2: More Negotiation Theory ...

### Types of Agreements

Negotiation theorists distinguish between win–lose, compromise and principled agreements.<sup>11</sup> These three types differ in terms of:

- the satisfaction the agreement accords to each negotiation party. Win–lose agreements enable only one party to reach their goals; compromise agreements enable both to fulfil some of their objectives, although they need to make concessions; principled agreements satisfy the interests of the two parties perfectly.
- the negotiation approach they require.

### Win–Lose Negotiation

In a win–lose, also called a zero-sum or distributive negotiation, the interests of the two parties are irreconcilable, making mutually satisfactory outcomes impossible. For example, in a struggle over a cake, if one person sets out to eat more cake than the other, the other person is by implication going to get less cake. In such a contest, negotiators are forced to take a tough and aggressive approach in order to *prevail* over the other side.

### Compromise Negotiation

In a compromise negotiation an agreement can be found that satisfies both parties, if interests can be recognised as at least somewhat compatible – although it may require that each side make significant concessions and compromises. For example, a seller and a buyer

negotiating the price of a cake may both want to achieve a sale. If the buyer gets a reasonable discount but the seller still feels that he/she has sold the cake at an acceptable price, then both gain from the transaction, even if each might have hoped to have done slightly better. Compromise approaches to negotiations tend to be soft and friendly, usually avoiding confrontation and focusing on meeting each other half way.

### Principled Negotiation

According to Roger Fisher and William Ury, who first coined this approach to negotiation, principled agreements are the most effective kind.<sup>12</sup> They tend to deal with the issue at hand rather than play to the temperaments of the negotiators and so can emerge as the most reasonable. Principled negotiations satisfy the interests of both parties without necessarily forcing either of the parties to compromise. They do this by using a problem-solving approach that focuses on the needs and interests of both parties.

The classic example of a principled negotiation is two people fighting over an orange.<sup>13</sup> Both want the orange but, it emerges, for different reasons. One wants the orange to make a drink of orange juice, while the other wants it for its peel in order to make a cake. Once the respective needs and interests of each party have been uncovered through a problem-solving (as opposed to bargaining) approach to negotiation, the orange can be peeled and squeezed to make both parties better off without either having to enter into a compromise.

Principled negotiators avoid hard- or soft-line approaches in favour of an 'exploratory problem-solving attitude'.<sup>14</sup> They apply reason to reach results and avoid contests of will.<sup>15</sup> This example shows that principled agreements are possible when interests are complementary and compatible. A conflict over an orange might be more complicated when both sides want the orange to make their own marmalade – for which you need both peel and juice!

### Fear, High Risk and Low Trust

Unlike many other types of negotiation, humanitarian negotiations occur in times of war and in unstable places. The extreme positions taken in

an armed conflict and the destructive nature of war itself can render people's actions very aggressive and their reasoning unpredictable. War can also push extreme personalities into positions of power they would not normally achieve in peacetime. Depending on how the war is going, a situation can be as risky – or even more dangerous – for the counterpart as for the humanitarian negotiating team. In many instances, both groups of people are risking their lives.

The constant fear and insecurity associated with conflict environments makes it problematic to build trust between negotiating parties, sometimes impossible. Rather, parties perceive each other in hostile terms and refuse to share information. As a result, negotiators often take extreme or defensive positions, thereby reducing their chances of reaching a successful agreement.

### 360 Degree Negotiations

Humanitarians usually operate within a dense web of relationships with different individuals and groups, usually at several different levels. All of these groups have to be negotiated with in order to achieve a specific objective. This means that humanitarians are seldom simply negotiating a single linear relationship but are engaged negotiations taking place all around them often simultaneously, with different authorities and community representatives.

For example, if humanitarians want to provide medical assistance to a hospital for those wounded in war, they must first talk with the Ministry of Health about material and staffing needs. Once an agreement has been reached, humanitarians may be obliged to consult with the Ministries of Security, Defence and Interior, as well as with representatives of rebel groups, to secure safe delivery of the goods and to ensure people's safe passage to hospital. Finally, it may be necessary to hold discussions with members of the civilian populations in order to determine which of the wounded will be referred to hospital.

Useful tools such as *stakeholder mapping* can help aid workers to keep track of the plethora of actual and potential parties in any set of humanitarian negotiations (see Chapter 5).

### No Common Negotiating Culture

Negotiators in many other professions usually enjoy some kind of common setting and shared culture of negotiation and bargaining that facilitates

agreement. For instance, lawyers meet in court and rely on objectivity and accuracy to make a good case. Business people come together in boardrooms or restaurants and draw on familiar vocabulary and customs to open and close a deal. In contrast, and more like international salespersons, humanitarians negotiate all over the globe in locations as diverse as small villages in rural areas to five-star hotels in capital cities. Their interlocutors include heads of state, government ministers, local authorities, rebel fighters, religious leaders, soldiers at checkpoints, community leaders and destitute civilians. This makes it impossible to adopt and refine a single way of doing humanitarian business.

Humanitarians often find it difficult to develop a common understanding with their counterparts:

“To gain access to communities that lived in remote mountain areas we had to negotiate with local chiefs, representatives of churches, local authorities, rebels, the army ... as well as [with] the groups from the communities themselves. This is where I realised that penetrating the culture of all these different actors and understanding their way of thinking would be a major challenge.”

*(Aid worker talking about experiences in Central America)*

### Asymmetry in Power and Knowledge

In other types of negotiations, the two parties are often on a relatively equal footing in terms of power and knowledge. In a courtroom, for example, the defence and prosecutor enjoy equal standing before the judge. Both have the ability to research the case carefully and to prepare their negotiations. This is not always the case in humanitarian environments. When negotiating with government representatives, for instance, humanitarians may often feel that they are the weaker party because they do not have authority over the territory and population they want to assist and protect. In contrast, they may give the impression of being the more powerful actor when discussing assistance with civilians. In terms of knowledge, humanitarians often have access to information networks that help them to understand their counterpart's institutional role and personal background. This information may give them a negotiation advantage. Their counterparts, in comparison, often know little about the

organisation the aid worker is representing and his/her individual life story. The fact that aid workers often speak English fluently can also result in an imbalance in the relationship when negotiations are conducted in this language. In general, such asymmetries make it more difficult for the two parties to forge an effective partnership.

Counterparts sometimes feel that humanitarians do not treat them equally:

“Although humanitarians often make an effort to feel equal to us and not be patronising, it does not always work and they feel superior for some reason.”

*(Military representative in Southeast Africa)*

## CHAPTER 3 GOOD PRACTICE IN HUMANITARIAN NEGOTIATION

Low chances for satisfactory agreements, limited negotiation opportunities, high risk, complex and often asymmetric working relationships – the picture facing humanitarian negotiators seems to look bleak. But good humanitarian negotiators can and do rise to many of these challenges, usually by consciously or unconsciously applying a set of best practice techniques.

The rest of the handbook explores this framework of negotiation practice in detail, so that humanitarians can actively reflect on the key dynamics of the negotiation process and identify the specific knowledge, activities and skills necessary to improve their capacity as negotiators. This chapter outlines some general guidelines that will be taken up and elaborated in the following parts of the book.

### Focusing on Substance, Relationships, Process and Results

Substance, relationships, process and results are the four main things that humanitarians need to keep constantly in mind as they plan and implement any negotiation. These four aspects will run as continuous themes throughout the handbook.

The first three are the *what*, *who* and *how* of negotiation – the things you want and thus need to talk about; the people you need to talk to and convince; and the time and place at which you choose to talk. Finally, you need to make sure that, after the negotiations, any agreement moves effectively from paper to practice or from handshake to action.

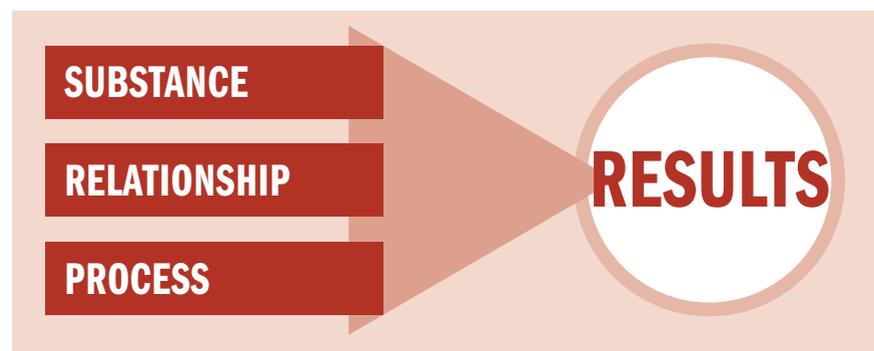
**Substance** – engaging in discussions on specific subject matters to achieve specific goals. For example, you may want to provide medical services to a population in a raided village or your counterparts may want to protect children from exploitative labour practices. You need to be talking about things that are relevant to making this happen.

**Relationships** – establishing sustainable working relationships with your interlocutor is critical. While this need not be a deep bond

of friendship, it needs to be some kind of connection that allows talks to continue, respects agreements, and permits joint oversight of their implementation.

**Process** – setting ground rules and procedures and determining venues and meeting times, so that the process of talking actively aids the act of talking.

**Results** – negotiating to achieve practical results that make a positive difference to the lives of war-affected populations must be your goal at all times. Reaching an agreement is a necessary condition for such an impact, but an agreement alone is not sufficient. Ensuring that any agreement is feasible and is followed by action on the ground is the true test of the results of negotiation. The agreement is but the *output* of your talks. The *outcome* of any negotiation is what happens to the affected population when the agreement is implemented.



### Working Through the Four Phases of Negotiation

Good negotiation practice consists of four phases: an analytical phase during which the situation is assessed; a strategic phase in which a negotiation plan is devised based on the analysis; actual face-to-face negotiations where you come to the table and engage in dialogue; and the follow-through phase when the agreement is implemented and monitored on the ground. Depending on how implementation goes, it may be necessary to restart negotiations.

While this division into four phases is conceptually useful, in reality, the phases often overlap and recur throughout the entire negotiation process.



Yet it is important to be conscious of them and to understand the activities that occur during each stage.

### Developing Interest Compatibility and Leverage

According to negotiation theorists, every negotiator brings some predefined positions and interests to the negotiation table. Positions are statements of what a party would like to achieve through negotiation. For example:

*“I would not like you to distribute aid items in my village.”*

Interests are the broader, more vital desires, concerns, needs and fears that are situated beneath these positions. Negotiators who focus on the satisfaction of interests will often achieve more effective outcomes than those who concentrate on satisfying a specific position, since interests are broader and thus offer more options for reaching mutually satisfactory agreements without compromise.<sup>16</sup> Good negotiators focus on interests and think hard about where areas of compatibility lie and identify options that can meet the needs of both parties. Experienced negotiators also work on developing their leverage – that is, the sources of power with which they can influence the other party. They think about what specific humanitarian offer they can provide to the other party and what other possible means they have to gain more influence.

### Negotiating Continuously

Negotiation is very rarely, if ever, a one-off interaction where the parties go straight from the airport to a meeting room, sign a document and never see each other again. On the contrary, negotiation usually starts long before the two parties actually meet for the first time and continues beyond any meetings.

Long before you sit down to negotiate anything specific, you are already communicating and sending messages through everything you do. Your presence in a country, the way you drive through villages, the manner in

which you interact with vendors at the local market, or your style of dress may emit signals to your potential counterparts and shape attitudes that will colour future negotiations. Negotiation involves constant interaction and so requires humanitarians to behave consistently, thoughtfully, courteously and professionally at all times and in all places.

It is often hard to define a clear beginning and end to humanitarian negotiation:

“Whether we choose to drive our land cruisers at full speed through villages raising clouds of dust that disturb the inhabitants or whether we drive slowly and respectfully, will make a difference on how we are viewed and can determine the future relationship we will have with our counterparts.”

*(Aid worker talking about experiences in Central Africa and the Great Lakes Region)*

### Working as a Team and Aligning Goals

Humanitarians always negotiate as part of an organisation and as representatives of a wider international system of values, principles and legal standards. At all times, it is important to ensure that negotiation strategies and objectives take into account, and are communicated to, colleagues above, below and beside you in the organisational hierarchy.

It is important to keep everyone in the loop and to feed information about substance, relations, personalities, procedure and the results of your negotiation continuously back through your organisation. A good agency team will often consist of a unique mixture of international and national staff, men and women, old and young. This diversity is a great resource for thinking through and leading negotiations if you know how to utilise it.

A humanitarian from Southeast Asia shared this example of good team work with us:

*She and an international colleague developed a creative working relationship in advance of talks. He always gave her the agenda he imagined for a specific negotiation. She would then make changes to the order of items on the agenda or to the title of certain items knowing what issues and phrases were likely to be more politically sensitive, briefing him accordingly.*

### Complementing the Negotiations of Other Agencies

Equally, 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. It is important to be well informed about other agencies' negotiations, the bottom lines they have set and the lessons they have learned and to exchange information accordingly so that you can achieve complementary agreements and outcomes. Without such cooperation, the warring parties will find it all too easy to divide and dominate the humanitarian effort in a given conflict.

### Producing a Successful Agreement

Whether your negotiation is successful or not depends on the kind of agreement that you and your opposite numbers are able to reach. No matter whether it is a win-lose, compromise or principled outcome, a good agreement will always have to offer some kind of advantage to your interlocutors. It will at least meet some of their needs or aspirations. Usually, a good agreement has the following five characteristics.

- **It meets the needs of the affected population.** Any agreement will only be of real value if the affected population benefits from it. Its interests, needs and desires should always be at the heart of your negotiation objectives and agreements.
- **It can be implemented.** Signing a piece of paper will be of little value if the actions agreed on are not feasible in practice. Make sure that all the lines of command are functioning and that the structures, resources and materials necessary for the implementation of an agreement are available and ready to be deployed. Do not agree to things that one or other side cannot or will not actually do, unless it buys you valuable breathing time and prevents the complete breakdown of a process.
- **It details specific obligations and responsibilities.** It is important to assign specific tasks and to include them in the final text of the agreement. Clearly defining *who* will do *what* and *when* will ensure effective monitoring of the agreement, as it enables the parties to keep track of each other's responsibilities.
- **It is sustainable.** A good agreement is one that lasts over a significant period. This means that both parties must be fully conscious of

the long-term consequences of an agreement. They must appreciate the length of their commitment.

- **It nurtures relationships for future negotiations.** A successful agreement will be the beginning, not the end, of a good working relationship with your counterpart. The rapport established during the negotiation should enable collaboration to continue on even better terms in future.

Implementation is key to a successful agreement:

“Never lose sight of the concrete impact that your negotiation will have on the victims. All too often, we engage in negotiations that remain relatively theoretical. Hypothetically, we will be able to live with the outcome but when we start implementing the agreement, we realise that there are many things we did not think about, that we did not expect. And then we find ourselves with a very good agreement, the implementation of which is completely unrealistic. For example, in one country we signed an accord ... that had to be renewed every six months. So, we constantly had to re-sign the agreement and every new signature involved new negotiations. In effect, we ended up in a situation where there wasn't really any agreement at all anymore.”

*(Aid worker talking about experiences in Eastern Europe)*

Unfortunately, whether a negotiation is successful and whether the final agreement is of high quality will not always be under your control. There are many external factors that can jeopardise an agreement. Your counterpart may find it difficult to convince his or her colleagues to buy into the agreement, making implementation impossible. The conflict may evolve dramatically and lead to changes in local or national command structures, which may effectively nullify an agreement. Identifying as many risks as possible to an agreement and taking steps to pre-empt them is essential, but it will seldom make an agreement watertight.

## SUMMARY PART ONE

In this part we examined the following points.

- 1 Humanitarian access, assistance and protection as key objectives of a humanitarian negotiation and the three different levels of humanitarian negotiation: strategic; operational; and frontline.
- 2 The main features that distinguish a humanitarian negotiation from other types of negotiation. These include: war and the personal risk that humanitarians run when negotiating; the frequent rejection humanitarians face; the obstacles to successful agreements; the fear and high degree of risk prevalent in humanitarian environments; the 360 degree nature of humanitarian negotiations; the lack of a common negotiating culture; and the asymmetry in terms of power and knowledge that can often prevent humanitarians and their counterparts from building an effective working relationship.
- 3 The key elements of good practice in the area of humanitarian negotiation, including:
  - focusing on substance, relationships, process and results;
  - paying attention to analysis, strategy, face-to-face and follow-through;
  - trying to bring together the interests, not positions, of the two negotiating parties and maximising leverage;
  - viewing negotiation as a continuous process, not limited in time;
  - negotiating as a team – carefully aligned with all parts of your organisation;
  - being complementary with the negotiations of other agencies; and
  - creating successful agreements that meet the needs of protected persons, can be implemented, is sustainable and helps to build good relationships for future negotiations.

## NOTES

- 1 *Statement of Under-Secretary-General Jan Egeland at the Open Meeting of the Security Council on the Protection of Civilians in Armed Conflict*, 9 December 2003, p. 7.
- 2 *Ibid.*, p. 1.
- 3 For a good definition of humanitarian access, see Bonwick, Andrew. *Humanitarian Access – How can Humanitarian Assistance be Safeguarded in Conflict?* Speaking Notes, Wilton Park Conference on the Protection of Civilians in Armed Conflict, 25–29 November 2002.
- 4 ICRC, *Discover the ICRC*. Geneva: ICRC, 2001, pp. 28–29.
- 5 Giossi, Sylvie. *Strengthening Protection in War: A Search for Professional Standards*. Geneva: ICRC, 2001, p. 19.
- 6 For a detailed definition of protection see Slim, Hugo and Eguren, Luis Enrique. *Humanitarian Protection. A Guidance Booklet*. London: ALNAP, 2004, pp. 21–30.
- 7 Lewicki, Roy, Litterer, Joseph and Minton, John. *Negotiation*. Second Edition. Burr Ridge, IL: Irwin, 1992, p. 24.
- 8 Negotiation theorists Roger Fisher and William Ury refer to ‘fallbacks’ as BATNAs (Best Alternative to a Negotiated Agreement). See Fisher, Roger and Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In*. Second Edition. New York: Penguin, 1991.
- 9 The basics of principled negotiation are explained by the founders of this approach, Roger Fisher and William Ury, in *Getting to Yes: Negotiating Agreement Without Giving In*. *Op. cit.*
- 10 For a good description of compromise and win–lose negotiations see Lewicki, Roy, Litterer, Joseph and Minton, John. *Negotiation*. *Op. cit.*, Chapters 2 and 3.
- 11 See: Lewicki, Roy, Litterer, Joseph and Minton, John. *Negotiation*. *Op. cit.*; and Fisher, Roger and Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In*. *Op. cit.*
- 12 See Fisher, Roger and Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In*. *Op. cit.*, pp. 3–14.
- 13 Rubin, J.Z. and Brown, B.R. *The Social Psychology of Bargaining and Negotiation*. New York: Academy Press, 1975, p. 25.
- 14 Fisher, Roger and Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In*. *Op. cit.*, p. 13.
- 15 *Ibid.*
- 16 See, for example, Fisher, Roger and Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In*. *Op. cit.*, pp. 40–55. For more information on interests and positions see Chapters 4 and 6 of this handbook.

