The Humanitarian as Negotiator: Developing Capacity Across the Sector

by Rob Grace

About the Author

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Acknowledgements

About the Humanitarian Negotiation Working Paper Series

The *Humanitarian Negotiation Working Paper Series*—an initiative of the Advanced Training Program on Humanitarian Action (ATHA) at the Harvard Humanitarian Initiative—aims to respond to the increased interest across the humanitarian sector in inter-agency dialogue on professional practices related to negotiations in humanitarian contexts. Building on an ongoing series of advanced practitioner workshops that ATHA has been convening at the field level for humanitarian practitioners since 2014, the working paper series is oriented toward generating an evidence base of professional approaches and reflections on current dilemmas in this area. The *Working Paper Series* also aims to marry the well-established field of negotiation theory, a body of literature primarily focused on other contexts, such as legal and political settings, with the bourgeoning interest in the practice of humanitarian negotiation.

For more information about this research project, please contact Anaïde Nahikian (Program Manager, Advanced Training Program on Humanitarian Action) at anahikia@hsph.harvard.edu or Rob Grace (Senior Associate, Advanced Training Program on Humanitarian Action) at rgrace@hsph.harvard.edu.

Introduction

> *She was originally hired to work on a long-term HIV/TB project in a fragile and under-developed, yet peaceful, country. But when a civil war erupted, the fluid nature of the field environment necessitated an expansion of her job responsibilities. Given the importance of transporting staff and supplies via airplane, she found herself negotiating with an army captain about how many flights could arrive and depart. Even though she had a limited background in negotiation, she was savvy, reasonable and forceful when necessary, would spend a lot of time understanding what the captain knows and what he doesn't know, and would schmooze him with a couple of cigarettes, ask about his kids, and ultimately get her way. Sometimes, she would ask for twenty-five flights, even though her team could never make them because they didn't have fuel. So the captain would feel great about getting half of them and would feel tough, and she still had two extra flights. But then, due to health issues, she had to be replaced. Her successor would become agitated during negotiations with the captain, was a little more easily intimidated, and was forceful without knowing how to press the captain strategically for his objectives. He was thrown into this role without wanting it, without liking it, and the consequences were substantial: the replacement's lack of negotiation skills relative to his predecessor severely impacted the humanitarian organization's capacity to bring in flights.*

The above anecdote, relayed by a humanitarian practitioner interviewed for this paper, has three key implications. First, negotiation plays a central role in humanitarian action. Indeed, in this instance, the field team's capacity to fulfill a core aspect of its mission—treating patients during a humanitarian crisis—hinged on the ability to negotiate the transportation of staff and supplies. Second, individual skills, personalities, negotiating styles, and/or profile matter. In this example, all other factors that one would expect could impact a negotiation's outcome—the interests and/or motivations of both sides, the power dynamics, the cultural divide between the counterparts—remained the same except for one: the identity of the negotiator him/herself. The replacement's comparatively inferior negotiation instincts had an adverse effect on the humanitarian operation. Third, humanitarian practitioners often unexpectedly stumble into negotiator roles. There are not typically specialized humanitarian negotiators to which one can turn when negotiation needs arise. On the contrary, negotiation is a core competency that every humanitarian practitioner working in the field might need.

The humanitarian sector, at least at the organizational level, has begun taking steps toward embracing each of these three points. Indeed, the various research, policy, and training initiatives on humanitarian negotiation that have emerged reflect this evolution. Several organizations—including the HD Centre on Humanitarian Dialogue,[1] the Office of the High Commissioner for Refugees (UNHCR),[2] the Office for the Coordination of Humanitarian Affairs (OCHA),[3] Conflict Dynamics International,[4] and Mercy Corps—have produced guidance materials on humanitarian negotiation. Another recent development is the launch of the Centre of Competence on Humanitarian Negotiation, an outgrowth of the Strategic Partnership on Humanitarian Negotiation, which involves UNHCR, Médecins Sans Frontières (MSF), the World Food Programme (WFP), the HD Centre for Humanitarian Dialogue, and the International Committee of the Red Cross (ICRC).[5] Building on previous research and policy work on humanitarian negotiation, the Center aims to create a "safe, informal and neutral space to discuss and review humanitarian-negotiation and conflict-mediation processes" and "to facilitate the emergence of a global community of practice among professionals engaged in" this domain.[6]

Additionally, valuable case study research has been produced, in particular by UNHCR and MSF, that illuminates the numerous challenges and dilemmas that practitioners

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[1] See generally Deborah Mancini-Griffoli and André Picot, "Humanitarian Negotiation: A Handbook for Securing Access, Assistance and Protection for Civilians in Armed Conflict," HD Centre for Humanitarian Dialogue, October 2004, http://www.hdcentre.org/wp-content/uploads/2016/07/Humanitarian-Negotiationn-A-handbook-October-2004.pdf.

[2] See generally "Negotiation," in "UNHCR Coordination Toolkit," United Nations Office of the High Commissioner for Refugees, http://www.coordinationtoolkit.org/?p=1058.

[3] See generally Gerard Mc Hugh and Manuel Bessler, "Humanitarian Negotiations with Armed Groups: A Manual for Practitioners," United Nations Office for the Coordination of Humanitarian Affairs and the Inter-Agency Standing Committee, 2006, https://docs.unocha.org/sites/dms/documents/humanitariannegotiationswarmedgroupsmanual.pdf.

[4] See generally "Negotiating Humanitarian Access: Guidance for Humanitarian Negotiators," Conflict Dynamics International, July 2017, http://www.cdint.org/documents/cdi_negotiation_brief_v1.10_english.pdf.

[5] The Advanced Training Program on Humanitarian Action currently partners with the Centre of Competence on Humanitarian Negotiation on delivering a series of field-based humanitarian negotiation workshops. For more information, see "Advanced Regional Workshops on Frontline Humanitarian Negotiations," Advanced Training Program on Humanitarian Action, http://atha.se/negotiationworkshop.

[6] Centre of Competence on Humanitarian Negotiation, "Concept Paper," p. 4, http://frontline-negotiations.org/wp-content/uploads/2016/06/Concept-Paper-on-the-Center-of-Competence-Web-version.pdf.

negotiating in the field have faced.[7] Indeed, as the interviews conducted for this paper affirm, humanitarian professionals often struggle in their efforts to engage with recalcitrant governments or non-state armed groups (NSAGs), navigate compromises when humanitarian principles are at stake, address legal uncertainty when negotiating with NSAGs designated as terrorist groups, undertake internal negotiations to toward cultivate a unified organizational approach toward external counterparts, and coordinate with other humanitarian organizations operating in the same field environment.

Previous and ongoing research and professional development measures that organizations have pursued constitute merely the first steps in a long-term evolutionary process aiming toward conceptually embracing the importance of negotiation to humanitarian action, as well as directing sufficient resources and institutional support to cultivating negotiation capacity. This working paper seeks to take a step back and adopt a bird's eye view of this process. Rather than probe the particular challenges and dilemmas of humanitarian negotiation itself—indeed, a worthy topic for further examination and analysis—this working paper will address several basic but thus far under-explored questions: What exactly is humanitarian negotiation? How has this field been defined, conceptualized, and delineated? As the humanitarian sector wades more deeply into cultivating negotiation capital, on what core skills should these efforts focus? What challenges might these professional development efforts face?

This working paper, based on extensive interviews with international staff in the humanitarian field, seeks to address these questions. The paper is divided into five

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[7] For MSF, see generally Claire Magone, Michaël Neuman, and Fabrice Weissman (eds.), *Humanitarian Negotiations Revealed: The MSF Experience* (London: Hurst and Co., 2012). For UNHCR, see generally Mark Cutts, "The Humanitarian Operation in Bosnia, 1992-95: Dilemmas of Negotiating Humanitarian Access," Working Paper No. 8, Centre for Documentation and Research, United Nations Office of the High Commissioner for Refugees, May 1999, http://www.unhcr.org/3ae6a0c58.pdf; Arafat Jamal, "Access to Safety? Negotiating Protection in a Central Asian Emergency," Working Paper No. 17, Centre for Documentation and Research, United Nations Office of the High Commissioner for Refugees, February 2000, http://www.unhcr.org/en-us/research/working/3ae6a0c30/access-safety-negotiating-protection-central-asian-emergency-arafat-jamal.html; and Anna Richardson, "Negotiating Humanitarian Access in Angola: 1990—2000," Working Paper No. 18, Centre for Documentation and Research, United Nations Office of the High Commissioner for Refugees, June 2000, http://www.unhcr.org/en-us/research/working/3ae6a0c9b/negotiating-humanitarian-access-angola-1990-2000-anna-richardson.html. Also, see generally William Carter and Katherine Haver, "Humanitarian Access Negotiations with Non-state Armed Groups: Internal Guidance Gaps and Emerging Good Practice," Resource Paper, October 2016, http://www.gppi.net/fileadmin/user_upload/media/pub/2016/SAVE__2016__Humanitarian_access_negotiations_with_non-state_armed_groups.pdf.

parts. Part I provides a brief overview of the paper's methodology. Part II discusses perceptions about the conceptualization of humanitarian negotiation. Part III analyzes four different types of negotiation capital—cognitive, emotional, social, and cultural—that, as the interview findings reveal, are important to the success of negotiation processes. Part IV examines key difficulties inherent in the process of promoting negotiation as a core competency for humanitarian action. Part V offers concluding remarks.

I.   Methodology and Scope of Interviewee Pool

The primary empirical basis of this paper consists of 54 interviews with humanitarian practitioners conducted by the Harvard Humanitarian Initiative's Advanced Training Program on Humanitarian Action (ATHA) between May and November 2016. The interview protocol guaranteed that interviews would be cited anonymously and that interview content that could allow interviewees to be identified would not be made public, in order to allow interviewees to speak freely about their professional experiences.

The interviewee pool focused on field-based practitioners in senior- or mid-level management or operational roles who have worked in situations of armed conflict, including complex emergencies. Several interviewees (11 total) also discussed experiences working in non-conflict, natural disaster or health emergency settings. Additionally, interviewees discussed negotiations that occurred in non-conflict, non-disaster settings. These interviewees mentioned involvement in addressing protection issues of detainees, migrants, and refugees far removed from conflict zones, as well as in situations of internal violence that did not amount to armed conflict. Interviewees also discussed experiences operating in post-conflict settings. Two interviewees discussed working in non-conflict, urban environments. Two other interviewees, although not humanitarian negotiators themselves, have been involved in organization-specific initiatives geared toward policy development, the production of methodological guidance, and/or training.

ATHA sought diversity in the interviewee pool in terms of organizational affiliation and the geographic locus of field operations where interviewees have worked. Organizations for which interviewees have worked include:

- United Nations agencies (such as UNHCR, WFP, OCHA, United Nations Children's Fund, and International Organization for Migration);

- non-governmental organizations (such as MSF, Mercy Corps, Norwegian Refugee Council, Oxfam, Save the Children, International Rescue Committee, Medair, American Refugee Committee, Catholic Relief Services, and Church World Service); and
- entities associated with the Red Cross/Red Crescent Movement (including the ICRC, as well as national Red Cross and Red Crescent Societies).

The operational contexts in which interviewees have worked include the following countries, categorized by region:

- Africa (Angola, Burundi, Central African Republic, Chad, Democratic Republic of the Congo, Egypt, Ethiopia, Ivory Coast, Kenya, Liberia, Libya, Mali, Mozambique, Niger, Nigeria, Rwanda, Sierra Leone, Somalia, South Sudan, Sudan, Zimbabwe);
- Middle East (Iraq, Kuwait, Lebanon, Occupied Palestinian Territories, Syria, Turkey, Yemen);
- Asia/Pacific (Afghanistan, Cambodia, China, Georgia, India, Indonesia, Laos, Malaysia, Myanmar, New Zealand, Pakistan, Papua New Guinea, Russia, Sri Lanka, Tajikistan, Thailand, the Philippines, Vietnam);
- Americas/Caribbean (Brazil, Colombia, Honduras, Dominican Republic, El Salvador, Guatemala, Haiti); and
- Europe (former Yugoslavia).

Three caveats are important to note about the interviewee pool. First, the interviewee pool is not comprised of a random selection of practitioners across the entire humanitarian sector. Instead, ATHA initially drew primarily from practitioners who had already engaged with ATHA in some capacity, in many cases by attending an ATHA workshop on negotiation.[8] ATHA also employed snowball sampling, seeking referrals during interviews for additional potential interviewees. Therefore, one should not necessarily consider the interviewee pool to be broadly representative of the entire humanitarian sector. Instead, the interviewee pool represents a select group of professionals, many of whom had already engaged in a certain degree of professional reflection on the practice of humanitarian negotiation. A language barrier further limited the interviewee pool, given that all of the interviews were conducted in English.

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[8] For more information about ATHA's workshops, see "Advanced Regional Workshops on Frontline Humanitarian Negotiations," Advanced Training Program on Humanitarian Action, http://atha.se/negotiationworkshop.

Second, the interviews predominately capture the views of international staff. Although the interviewee pool does include a selection of national staff that discussed experiences working or volunteering in the Middle East (2 total) and Africa (2 total), the large majority of interviewees (50 total) were international staff. This aspect of the interviewee pool is important to consider, especially in light of the reality that international staff comprise only a small minority of aid workers throughout the sector.[9] Interviewees discussed the importance of national staff to the practice of humanitarian negotiation, as well as the differing dynamics that international versus national staff face in relation to issues such as cultural knowledge, security risks, and opportunities for training. Additionally, previous research has highlighted the fact that, in certain contexts, international staff, potentially driven by a desire to preserve plausible deniability—for example, when engaging with NSAGs designated as a terrorist entities—are not even aware of the negotiation activities that national staff undertake.[10] These findings suggest the importance of further probing the experiences of national staff in future research in this area.[11]

Third, in terms of gender, 14 of the interviewees were female while 40 were male. ATHA has produced previous research that focused specifically on gender dynamics of negotiations that humanitarian professionals undertake, and this working paper will briefly address these issues as well.[12] However, negotiation gender dynamics are also

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[9] Abby Stoddard et al., "The State of the Humanitarian System Report: 2015," Active Learning Network for Accountability and Performance and Overseas Development Institute, 2015, p. 38, http://www.alnap.org/resource/21036.aspx.

[10] See Ashley Jackson and Antonio Giustozzi, "Talking to the Other Side: Humanitarian Engagement with the Taliban in Afghanistan," HPG Working Paper, Humanitarian Policy Group, Overseas Development Institute, December 2012, p. 6, https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7968.pdf.

[11] For recent publications that examine the role of local organizations in facilitating humanitarian access, see generally Eva Svoboda and Salem Haddad, "What's the Magic Word? Humanitarian Access and Local Organisations in Syria," HPG Working Paper, Humanitarian Policy Group, Overseas Development Institute, March 2017, https://www.odi.org/sites/odi.org.uk/files/resource-documents/11353.pdf; Eva Svoboda, "The Anatomy of Local Negotiations: Humanitarian Access and Local Organisations in Syria," Policy Brief 67, Humanitarian Policy Group, Overseas Development Institute, July 2017, https://www.odi.org/sites/odi.org.uk/files/resource-documents/11675.pdf; and Veronique Barbelet, "Humanitarian Access and Local Organisations in Ukraine," HPG Working Paper, Humanitarian Policy Group, Overseas Development Institute, September 2017, https://www.odi.org/sites/odi.org.uk/files/resource-documents/11746.pdf.

[12] See generally Federica du Pasquier, "Gender Diversity Dynamics in Humanitarian Negotiations: The International Committee of the Red Cross as a Case Study on the Frontlines of Armed Conflicts," Humanitarian Negotiation Working Paper Series, Number 1, November 2016, http://www.atha.se/sites/default/files/atha_gender_diversity_dynamics_in_humanitarian_negotiations.pdf.

worthy of further examination, and given the limited female representation (26% of interviewees) in the interviewee pool on which this paper is based, one should consider the paper's findings on these issues to be preliminary and suggestive of avenues for further research.

In light of these three caveats, this working paper constitutes merely one building block in a long-term research agenda on the practice of humanitarian negotiation. Depending on where the path of this research agenda leads, it will also (in addition to shedding more empirical light on the views of national staff and the gender dynamics at play) likely be important to study directly the perspectives of other types of actors—for example, beneficiaries, armed actors, and members of local communities—relevant to humanitarian negotiation.[13] This working paper aims to serve as a steppingstone toward further research on this burgeoning topic.

II.   The Enduring Ambiguous Nature of "Humanitarian Negotiation" as a Concept

This section will address a key issue that arose through the interviews conducted for this paper: the lack of conceptual clarity regarding what the term "humanitarian negotiation" actually means.[14] Various documents—the OCHA and HD Centre handbooks on negotiation, as well as the "Concept Paper" of the Centre of Competence

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[13] For existing research that examines perceptions of armed actors of humanitarian actors, see generally Jackson and Giustozz, 2012; Irina Mosel and Ashley Jackson, "Talking to the Other Side: Humanitarian Negotiations in Southern Kordofan and Blue Nile, Sudan," HPG Working Paper, Humanitarian Policy Group, Overseas Development Institute, July 2013, https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8591.pdf; Ashley Jackson and Abdi Aynte, "Al-Shabaab Engagement with Aid Agencies," Policy Brief 53, Humanitarian Policy Group, Overseas Development Institute, December 2013, https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8749.pdf; Ashley Jackson and Abdi Aynte, "Talking to the Other Side: Humanitarian Negotiations with Al-Shabaab in Somalia," HPG Working Paper, Humanitarian Policy Group, Overseas Development Institute, December 2013, https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8744.pdf; Ashley Jackson, "Humanitarian Negotiations with Armed Non-state Actors: Key Lessons from Afghanistan, Sudan and Somalia," Policy Brief 55, Humanitarian Policy Group, Overseas Development Institute, March 2014, https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8847.pdf; Ashley Jackson, "In Their Words: Perceptions of Armed Non-State Actors on Humanitarian Action," Geneva Call, May 2016, http://genevacall.org/wp-content/uploads/dlm_uploads/2016/09/WHS_Report_2016_web.pdf; and "Aid Worker Security Report 2017," Humanitarian Outcomes, https://aidworkersecurity.org/sites/default/files/AWSR2017.pdf.
[14] For an examination of similar issues around the term, "humanitarian diplomacy," see generally Philippe Rénier, "The Emerging Concept of Humanitarian Diplomacy: Identification of a Community of Practice and Prospects for International Recognition," *International Review of the Red Cross*, Vol. 93, No. 884, December 2011, https://www.icrc.org/eng/assets/files/review/2011/irrc-884-reginier.pdf.

on Humanitarian Negotiation—have offered definitions of the term. However, the interview findings show that the perspectives of humanitarian negotiators themselves do not necessarily align with how these documents have conceptually carved out humanitarian negotiation's definitional ambit.

As a starting point, one can turn to the HD Centre handbook, which defines humanitarian negotiation as an activity undertaken:

- **by humanitarian actors**, such as members of appropriately mandated and impartial organisations like UN [United Nations] agencies, NGOs [non-governmental organizations] 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.[15]

Examining each of the above four elements in light of the interview findings illuminates the difficulties of defining humanitarian negotiation in precise terms. The first element—"by humanitarian actors"—is complicated by the fact that one might dispute whether certain organizations are "appropriately mandated and impartial," as the HD Centre definition requires. Indeed, one interviewee spoke about the difficulties of "working with people who like to call themselves humanitarians and yet don't understand humanitarian principles." Such disputes, when they arise, about who truly understands and abides by humanitarian principles can be hotly debated. [16] Consequently, such a contested notion is unlikely to serve as a reliable, objective marker for specifically delineating the concept of humanitarian negotiation. Indeed, it seems that this lack of clarity stems directly from the contestable nature of what constitutes humanitarian action itself. In this sense, the enduring conceptual predicament is an outgrowth of the fact that the field of humanitarianism, unlike, for example, the medical profession, has imprecisely defined the contours of its professional jurisdiction.[17]

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[15] Mancini-Griffoli and Picot, p. 19 (emphasis in original).

[16] For example, see generally "Taking Sides: The United Nations' Loss Of Impartiality, Independence And Neutrality In Syria," The Syria Campaign, 2016, http://takingsides.thesyriacampaign.org/wp-content/uploads/2016/06/taking-sides.pdf.

[17] This insight draws from literature on the evolution of professions. For a foundational work in this strand of scholarship, see generally Andrew Abbott, *The System Of Professions* (Chicago: University of

One could adopt a qualification articulated in the OCHA handbook, that being that humanitarian negotiations must be "undertaken by *civilians* engaged in managing, coordinating and providing humanitarian assistance and protection."[18] The importance of the civilian nature of humanitarian actors is reflected by the words of one interviewee who articulated concerns about governments "trying to rebrand their military as humanitarian agents." This interviewee expressed a widely held view that "there is something inherently incompatible with the implied principles of humanitarianism and the armed nature of this delivery." However, one could argue that drawing this conceptual line risks discounting the role that military actors have played, and continue to play, in humanitarian action, whether or not one views this reality as normatively desirable.

The second element—"for humanitarian objectives"—can also leave ambiguity about which specific activities should fall under humanitarian negotiation's conceptual umbrella. Should this domain encompass negotiations focused on shaping laws and policies on the diplomatic level? In this sense, many interviewees interpreted "humanitarian negotiation" broadly to include not only operational engagements directly related to humanitarian assistance and protection but also negotiations with governments on health policies, with United Nations Security Council members on drafting resolutions relevant to humanitarian assistance and/or protection, and with governments on creating new international law aiming to facilitate humanitarian action. Furthermore, should one also consider negotiations relevant to the general operations of humanitarian organizations? For example, certain interviewees discussed experiences negotiating donor contracts and dealing with human resource (HR) issues.

The Centre of Competence "Concept Paper" places focus on field-based negotiations by articulating the term, "frontline negotiations." However, the specific delineation between "frontline" and other types of negotiations remains unclear. In this sense, the Centre of Competence definition seems to draw from a typology of three different levels discussed in the HD Centre handbook. The first is "high-level strategic," which entails working with "parties to the conflict at the highest political level of the state."[19] The second is "mid-level operational," meaning "regional or district level authorities."[20] The third is "ground-level frontline," which means "junior level state and armed group

Chicago Press, 1988). Also, see generally Rob Grace and Claude Bruderlein, "Developing Norms of Professional Practice in the Domain of Monitoring, Reporting, and Fact-finding," in *The Transformation of Human Rights Fact-finding* eds., Philip Alston and Sarah Knuckey (Oxford: Oxford University Press, 2016).
[18] Mc Hugh and Bessler, p. 5 (emphasis added).
[19] Mancini-Griffoli and Picot, p. 21.
[20] Ibid.

authorities or community leaders." [21] Although, turning back to the Centre of Competence's definition of "frontline negotiation," which encompasses negotiations that "take place at the field level for the most part," the term appears to encompass negotiations that would fall under the HD Centre's "mid-level operational" and "ground-level frontline" categories.

The third element—"in countries affected by armed conflict"—appears too restrictive in light of the interview findings. As mentioned in Part I, interviewees also discussed negotiations that occurred in non-conflict, natural disaster or health emergency settings, or even other non-conflict environments, such as urban contexts. One interviewee discussed his work in a non-conflict urban setting in explicitly humanitarian terms, citing many of the same issues that he had encountered, and that other interviewees discussed, in relation to more traditional humanitarian settings:

> When you work in big cities, violence is high… there are drug trafficking groups and weapon dealers… in such areas within a big city, the government doesn't provide any service. No health, no education, nothing. It's like an island in the middle of the city. So these communities have to fill in these gaps on their own. We were trying to negotiate to obtain a permit from the government to enter and access these areas, which, for them, are considered the enemy. You really have to defend your neutrality and your humanitarian mandate… Once you are there, you also have to negotiate with the people managing these isolated areas. They have to understand that you are not coming from the government, that you have nothing to do with the official actors in that country, that you are an international trying to help their community, the community that they are trying to protect with their own law. It's a game on both sides.

The fourth element—"with the parties to the conflict"—also appears too restrictive. Indeed, interviewees discussed negotiations with a wide array of interlocutor types, including:

- Governments or NSAGs that control territory of concern to humanitarian actors
- Community leaders or other prominent local actors
- Other humanitarian organizations (e.g., related to reaching consensus on a coordinated approach, or even common "red lines" when engaging with counterparts)
- Beneficiaries and other members of affected communities

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[21] Ibid.

- Colleagues within the same organization (including not only HR issues but also a wide array of other issues, such as developing an internal consensus to an approach on an external negotiation, and coordinating approaches across different units of the same organization)
- Donors (e.g., turning to donors as a source of leverage when obstacles with external counterparts emerge, as well as negotiating donor contracts)
- Other international actors involved in, or with a stake, in the context (e.g., a UN peacekeeping mission operating in the same field environment)

Furthermore, a lack of clarity exists about the nature of negotiation as an activity. In this sense, the OCHA handbook provides a useful definition of negotiation as: "a process of communication and relationship building undertaken with the objective of arriving at an agreed outcome around a particular set of issues, in situations where the parties are not in complete accord on those issues to begin with."[22] The three key aspects of negotiation that this definition captures are that the process involves: 1) at least two people, 2) who initially disagree, and 3) engage in an interpersonal exchange to try to reach an agreement.

But what "counts" as negotiation and what does not? Interviewees expressed uncertainty and conflicting viewpoints on this question. As one interviewee stated, "I see there being something of a spectrum, and perhaps not all of it can properly be described as negotiation. But where the line exactly falls I'm not sure." One interviewee who has field experience working for a UN agency said of NGOs: "They don't engage in what I would generally consider to be humanitarian negotiations. I think the closest I've really seen them come is more along the lines of community acceptance, where armed groups are a part of the community and part of their outreach, but never really in formal negotiations." In contrast to this interviewee's distinction between negotiation processes and acceptance strategies, another interviewee who works for an NGO described negotiation and acceptance as two inseparable components of the same activity:

> Negotiation is a process. For me, that is a very useful conceptual way to define humanitarian negotiation… It's not just that you can sit down and have a conversation, or two conversations, and then everything's fine. You need to set up the way you're operating in the environment, the way your team is interacting with the environment, the way you're presenting your activities, the way your activities are perceived, so you know that you have the acceptance, you know you have an environment that is safe enough to operate in.

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[22] Mc Hugh and Bessler, p. 5.

This interviewee did nevertheless acknowledge an enduring ambiguity in the definition, confirming the challenge of pinpointing in clear terms what exactly constitutes humanitarian negotiation. Reflecting on his view of negotiation as a process of "enabling your environment," he continued, "And so, is that negotiation? It's not clear for me." In line with these comments, another interviewee highlighted how the fluid nature of the field environment makes definitional specificity difficult:

> I guess I wouldn't strictly go into a certain situation and say, "now it's negotiation" or "now it's touching base." It kind of merges into a bit of everything. And in different contexts, you often have to engage in a discussion that might turn into a negotiation but you certainly wouldn't always go into it with that mindset in terms of: "Okay, today we're negotiating this or that." Those strict labels, if you think in those terms, you would just get frustrated because it's constantly changing.

In light of the considerations mentioned throughout this section, the task of defining humanitarian negotiation in precise terms appears far from simple. Not only can the line that divides humanitarian actors from other types of actors prove to be "grey" and contested, but also, given that humanitarians have interpreted humanitarian negotiation in expansive terms, it might not be feasible to specify an exhaustive list of relevant objectives, contexts, and counterparts, as well as a precise notion of what distinguishes negotiation from other types of field-based engagements and activities. It might be the case, as the interviewee comments presented above suggest, that cultivating consensus on this issue might not be necessary, and indeed, might prove to be more of academic exercise with limited practical value. It is beyond the scope of this working paper to resolve this issue. However, the enduring ambiguity of humanitarian negotiation appears to be a definitive aspect of the current state of the field, and indeed, one for humanitarian professionals to either embrace or otherwise address.

III.   Four Types of Negotiation Capital

This section addresses how one can conceptualize negotiation capacity. In particular, this section will discuss four types of negotiation capital—cognitive, emotional, social, and cultural—drawing on a typology articulated by negotiation expert, Michael Benoliel.[23] The value of disaggregating negotiation capacity in this manner is suggested

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[23] See generally Michael Benoliel, "Building Negotiation Capital," Asian Management Insights, Volume 4, Issue 1, May 2017, pp. 55-60.
https://cmp.smu.edu.sg/sites/cmp.smu.edu.sg/files/pdf/9.AMI_Issue7_BuildingNegotiationCapital.pdf.

by an observation that Benoliel makes about the general state of organizational approaches to building negotiation capabilities. Discussing the disproportionate focus that many capacity building initiatives grant to cognitive capital at the expense of other negotiation capital types, Benoliel writes that "[t]he modern rational approach to negotiation overemphasises the value of logic and rational decisions," giving less attention to other dimensions of negotiation capabilities.[24] Although Benoliel focuses primarily on corporate organizational environments, the consideration he mentions is highly relevant to the humanitarian sector as well. The interview findings particularly elucidate the importance of a holistic approach to negotiation capacity building. The rest of this section will address the full array of cognitive, emotional, social, and cultural skills necessary for humanitarians to do their jobs effectively.

A. Cognitive Capital

Cognitive capital "refers to the negotiator's ability to understand, analyse and synthesise the substance or the issues of the negotiation."[25] Interviewees stressed a wide spectrum of analytical activities that are crucial to success in negotiation. One could dissect these activities into three components. The first component is intensive contextual analysis. As one interviewee emphasized:

> Context is everything. To understand access and your ability to have access comes down to your intellectual knowledge of where you're working. You need to divert countless resources, more than would be traditionally seen, to understand the context of where you're trying to work. You have to live and breathe these conflicts. You have to live and breathe the dynamics. If you're going to argue with someone, you need that standpoint to be justified, and that's something that is hard to maintain, to keep that level knowledge. We really need that level of intellectual understanding to be able to position ourselves.

The second component consists of the interests and motivations of the counterpart. As another interviewee stated:

> The idea of trying to understand the motivations of the other actors, is just standard across all negotiations of any type. It's a big leg up to try and imagine in your mind what are the key factors that are making them act the way they do, in order to try and come up with arguments or reasons that will persuade them towards your position or what you're trying to achieve, and that goes for

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[24] Ibid., at 56.
[25] Ibid.

anything from negotiating at a roadblock to very formal negotiations with a non-state armed actor in the field.

A third component is the substance of the negotiation itself. In this regard, one interviewee highlighted the importance of diligent preparation, stating:

> You have to come prepared. You have to do your research. You have to do your homework, basically. You cannot go there and have only a basic understanding of a few elements. That means you're going to fail. You have to go there and be as prepared as possible because no matter how prepared you are, you will always face enormous difficulties.

A key obstacle to leveraging cognitive capital is that governmental and NSAG counterparts, as residents in the country, tend to know more about the context than international staff. Additionally, sometimes, as one interviewee mentioned, "They know you better than you know them. They know better how your organization works. They're usually very good at knowing your limits, and they know how to push your buttons, when you might not know anything about that for them." The high turnover rate prevalent throughout the humanitarian sector further fuels this issue due to the fact that, in the words of one interviewee, "We don't pass along the institutional knowledge of who the players are, and what power lies where." Therefore, the route toward promoting cognitive capital is twofold, involving, at the individual level, practitioners deepening their analytical skills, and at the organizational level, devising processes to retain institutional memory and offering opportunities for peer-to-peer support to cultivate cognitive capital. Interviewees also highlighted the importance of leveraging national staff, and building relational linkages with other local actors, who are likely to have more in depth knowledge and understanding of the relevant actors and the overall context.

B. Emotional Capital

Emotional capital is "the value inherent in the negotiator's ability to perceive, comprehend, analyse and regulate emotions in the face of emotional challenges in negotiation." In this vein, many interviewees spoke about the importance of remaining calm and controlling their emotions during negotiations. However, emotions are not only problems to be managed. Rather, emotions can also be actively leveraged to move a negotiation forward. One interviewee spoke about the importance of passion in this regard. "This can be contagious," he said. "That's important. It also helps motivate you to find a solution to go the extra mile, to be creative." Another important source of emotional capital is empathy. As one interviewee stated—indicating the mutually

reinforcing nature of empathy, as emotional capital, and analytical abilities, as cognitive capital—"That means you are able to put your feet in the shoes of the other party. If you cannot understand the rationale behind your interlocutor's behavior, it will be very difficult."

Emotional capital can also refer to managing the emotional and psychological strain that can result from the intense nature of the field environment. One interviewee discussed the importance of "making sure you're in the right state of mind going in and also psychically—if you didn't sleep the night before, or you have malaria and you're on medication, I wouldn't advise you to start negotiating. I would advise you to take rest and send somebody else." This interviewee also discussed the psychological resilience required in high stakes humanitarian negotiations, in particular, when human lives are on the line. Speaking about one drawn-out negotiation involving the movement of a group of people, many of whose lives were at risk, this interviewee stated:

> I was challenged to a point which I didn't think I could do it anymore. I think it took a lot of soul searching to try to get up the next day after being told, for whatever reason, you couldn't move the people the next day. You had to dig deep. You had to look inside yourself and find whatever power you could find and get yourself back out there to negotiate again. And I think that comes both from inside you, it's an innate type thing, but it's something you can learn over time.

Another interviewee highlighted humanitarian negotiators' lack of control over the ever-present possibility of failure in negotiation, saying:

> Keep it in the back of your mind—at least, what I have learned, through many negotiations where I have failed—that this is not the end of the world. Obviously, you know whatever negotiation in which you're engaging might affect the lives of people. Yes, that is true. But that does not mean that you control the negotiation. And once you understand that, the frustration and the psychological effects of that will be less harsh and less devastating. You have to understand that failure is always an option and that you have to learn to work around it. You have to understand it and see how to move around it and look to the next level, the next round of negotiations.

Mitigating the psychological toll that humanitarian negotiation can take on a field worker is a multi-dimensional process. As suggested by the quotes above, there is an individual aspect in that one can consciously cultivate this dimension of emotional

capital. But also important are the organizational aspects—namely, facilitating an organizational environment conducive to mindfulness about self-care and the creation and/or maintenance of institutional support mechanisms for staff working in stressful contexts. And finally, there is a sector-wide aspect. Indeed, a community of practice such as that envisaged by the Centre of Competence on Humanitarian Negotiation can be oriented toward not only analytical processes of learning lessons from past experiences but also emotionally processing particularly vexing field experiences.

C. Social Capital

Social capital "refers to the inherent value in the negotiator's ability to develop relationships, nurture trust, show respect, be flexible, play fair and build a positive reputation over time." The following interviewee quotes illustrate the high value that practitioners place on this dimension:

- "The more that we can build relationships of trust and respect and credibility, it really does position us for a stronger negotiation."
- "I suppose looking at the negotiations I've been involved with, trust is one of the main elements that determines whether or not it's successful."
- "[It] is [important] to hav[e] a person who has the personality that can bring people together, that can smile with their eyes and project confidence and gain the confidence of others. People aren't going to agree with someone that they think is shifty and evasive. You have to develop those skills of being able to project that confidence and generate enthusiasm for the things that you're trying to do."
- "Sometimes it's an innate skill that you find that people just have, that you have the ability to talk to people on a one-to-one level… I have always enjoyed actually talking to people, having conversations, and figuring out why people believe certain things—this is very important to understanding who we are as humans."
- "It helps to be a good communicator, and to present an argument in a consistent, clear, and interesting way."

One interviewee specifically highlighted the importance of the relationship-building process as a means toward opening up "space" for a fruitful negotiation:

Your first meeting is always role-playing. You're both playing a role. He or she will be playing the role of representing the government. You are playing the role of the humanitarian. That's how it goes initially. Once you start to peel away some of those layers, through personal relationships, in those conversations, you

show an understanding... You break the ice. You build a bond, build rapport. From there, at times, you have situations where space opens up. To build that connection, to show that understanding, and to get out of that initial role-playing that you both engage in from the beginning. Once you're able to shed that role to a certain extent and just connect on a personal level, then that's when the space opens up.

As a core aspect of this relationship-building process, many interviewees emphasized the importance of exhibiting respect and humility. As one interviewee recommended, "Even if you personally don't like who they are or what you stand for, recognize that they are a group that's potentially powerful. And whether you like that or not, if you don't show respect, they're not going to listen to you." However, this interviewee also mentioned that, in his field experience, he has sought to strike a balance between forging a personal bond built on mutual respect and demonstrating firmness to make clear that "We're not just going to give you everything you want." As he stated:

We rely on them, partly for security, partly for permission to deliver a project and to signoff on your project. But at the same time, you don't necessarily want to give them everything that they want. That's really difficult, treading that fine balance between keeping them on your side and understanding they also have to deliver on certain things… What I usually do moving into a new area with a new government actor is, the first thing they ask for, I push back. Just to say, "Okay, let's be clear that we're not just going to give in on everything." … But it's a very tricky balance. You don't want to upset them either.

Furthermore, one should consider social capital to encompass the skills required not only to forge fruitful relationships, foster trust, and build a positive reputation but also to mitigate the potential negative effects of undertaking these activities effectively. Indeed, one interviewee highlighted the fact that forging a strong personal bond can carry significant risks:

In some situations, having a relationship is also problematic in the same context. When they feel that, because they have a relationship with you, they can basically ask anything—to the point that another counterpart in the authority was almost hinting, basically actually asking for a bribe. And during those kinds of situations, it becomes more difficult, when you have a relationship with that person, to say no.

Along the same lines, another interviewee discussed complications rooted in the nature of certain actors with whom humanitarian practitioners engage:

On a more personal level, you're almost always dealing with mass murderers, essentially. That's for states and non-state actors alike because if you're dealing with many of the states, they have leadership or presidents that themselves have been accused multiple times of the biggest atrocities… It does always give you a problem at the level of informal engagement you have with this group of people. At a certain point, when it becomes more of a partnership rather than a necessary evil, and then you are in this grey zone where the balance between what you have to do and what you're supposed to do is getting out of kilter.

As the same interviewee also noted, slipping into this "grey zone" can adversely affect perceptions that community members have of humanitarian workers:

The people that see you doing that will lose trust in you, which means they will decide that you have a hidden agenda, and you are not there to help them, and they stay away from your clinics, or worse: they themselves will start being violent against you and your staff, because, as far as they can see, you are siding with their enemy.[26]

However, this issue extends beyond community perception to the broader issue of, as one humanitarian professional has written, "that blurry, but very real, line beyond which assistance for victims imperceptibly turns into support for their tormentors."[27] As the above interviewee continued, forging these relationships can facilitate the negotiation process: "That's why it's so tempting. To say, 'We are actually going to call each other by first names,' and 'Yes, I will go to this party, and we can do some business there,' it makes your negotiations easier. But it also makes you implicated more than you would like in their objective." These comments make evident the fact that social capital entails the ability not only to develop, but also to set boundaries around, the relationships that one forges with counterparts in the field.

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[26] For more information on local perceptions of humanitarian actors, see generally Caroline Abu-Sada (ed.), *In the Eyes of Others: How People in Crises Perceive Humanitarian Aid*, NYU Center on International Cooperation, Humanitarian Outcomes, and Médecins Sans Frontières, 2012, www.alnap.org/pool/files/msf-in-the-eyes-of-others.pdf.

[27] Rony Brauman, quoted in Marie-Pierre Allié, "Introduction: Acting at Any Price?" in Magone, Neuman, and Weissman, 2012, https://msf-crash.org/en/publications/agir-tout-prix-negociations-humanitaires-lexperience-de-msf/introduction-acting-any. The author wishes to thank Michaël Neuman for binging this quote to the author's attention.

D. Cultural Capital

Cultural capital entails "the inherent value in the negotiator's ability to understand the nuances of the stated and unstated values and norms of different cultures and negotiate effectively in complex cultural contexts."[28] The following interviewee quotes reflect the importance that humanitarian practitioners place on this dimension:

- "A critical aspect in negotiations, especially at the local level is cultural. Cultural elements can significantly impact how a negotiation happens and unfolds."
- "You need to use a great deal of cultural sensitivity and political respect no matter who you're dealing with. You don't want to piss anybody off, pardon my French."
- "Cultural awareness is key, and it's actually not necessarily outward stuff, very visible stuff, like not shaking hands with women. It's whatever is lying underneath, and developing cultural awareness, taking time to learn that when you're going into a new country program."

Context specificity is important, as one interviewee stated: "You cannot negotiate the same way with Asians, Africans, states and armed groups with different identities. You have to be culturally sensitive." Furthermore, missteps can set a negotiation back, as another interviewee stated: "If you're a Westerner coming into a conservative society and are offensive on a number of cultural levels, that can be very hurtful. Basic respect, basic understanding of the patterns, of the habits is important."

Various interviewees discussed experiences entering a country where he or she had not previously worked, and even in light of peer-to-peer and organizational support received, found a dearth of guidance in terms of the particular cultural dynamics of negotiation processes in that context. One interviewee stated:

> When I try to do research on cultural awareness, there is not a lot. They will tell you how a businessman from Germany negotiates with a South Korean or the Chinese or an Italian. But for humanitarians, there is nothing about how you deal with an Iraqi. Nothing about when you consider the deal [to be] closed on both sides. If you are diligent enough, you will do it by yourself. But there is no material for how, as a Western organization—because most of us are that or are perceived like that—and as white women or white men, you can engage in negotiation with an Iraqi. There is nothing about the cultural aspect. If you want to know about how Afghans negotiate, you have to do your own research. That

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[28] Benoliel, p. 7.

would be great to have this type of tool. And how do you negotiate when you are a woman in those countries? How are they perceived and what is expected from you? That would be very helpful, a catalogue of the main negotiation techniques, by country.

It is thus especially crucial for international staff to develop working relationships, and even partnerships, with people—including national staff and other local actors—who have an in depth familiarity with, and experience in, the cultural environment. One interviewee stated of this point:

In these environments, international staff will not speak the right language. Whilst there's a lot of criticism of the humanitarian sector for not having language specialists or cultural specialists, I think that's just a reality, and part of the strength of the sector is that you can share experience between cultures, between environments and contexts, and that's actually hugely rich. So I don't necessarily see it as something which has to change. I just see it as something that we have to manage. So getting that marriage right between nationals and internationals, in every part of the business, but particularly negotiations, is critical.

Another important aspect of leveraging cultural capital relates to understanding the impact of diversity in terms of the negotiating team's profile. As one interviewee stated about the role of gender, depending on the cultural context, "Your gender can help… but it can go both ways. It can put you in a more disadvantaged position. Sometimes it's more advantageous." On the one hand, in some conservative contexts, interlocutors have refused to engage with female humanitarian practitioners. One female interviewee recounted working in a country where "the other person would rather talk to my driver, who is a male, than talk to me, even though I'm the country representative or the project leader, simply because I'm a woman and it's degrading for him to speak to me." On the other hand, there can be an advantageous "surprise effect" when operating in male-dominated contexts,[29] due to the fact, as one interviewee stated, "that you're such an anomaly that sometimes you get different access."

These findings confirm earlier research that ATHA has published about the nature of gender as a "double-edged sword" in humanitarian negotiations.[30] As this earlier research has highlighted, females have found their gender to be advantageous when

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[29] For more about this "surprise effect," as well as other dynamics related to gender and humanitarian negotiation, see generally du Pasquier.

[30] For discussion of the issues mentioned throughout this paragraph, see du Pasquier, pp. 12-18.

negotiating with male counterparts in certain contexts, due to the fact that—in addition to the aforementioned "surprise effect"—there seemed to be an absence of a sense of rivalry, a greater potential to use charm in the negotiation, and a sense that a female negotiator had more credibility in carrying the humanitarian message. Conversely, though, female negotiators discussed contexts in which counterparts perceived them as naïve or as not a credible interlocutor. There can also be greater challenges in terms of setting boundaries to establish the purely professional nature of the relationship. Additionally, women discussed negotiations with female counterparts in which gender appeared to facilitate forging a bond with the interlocutor. However, in other contexts, negotiators found that the approaches that had worked with male counterparts were ineffective when engaging with females, and as a result, progress in negotiations was more difficult to attain.

The interviews also confirm ATHA's previous research finding about the relevance of other aspects of diversity.[31] One interviewee, reflecting more broadly on the role of diversity in this regard, stated, "There are some contexts where, because of who you are, you have more credibility, goodwill, or favor. Sometimes that's because of what country you come from, because of what faith tradition you're in, because of ethnicity, or because of the language you speak." Regarding nationality, one American interviewee worked in a country where "they found it very difficult to say no to an American. That's why I had to do all the negotiations." In contrast, another interviewee discussed negotiations in a different country where "some nationalities—for example, Americans—are a non-starter, no matter the personality of the negotiator. They will simply not negotiate with certain nationalities." In terms of the ethnic composition of the negotiating team, one interviewee relayed an experience in which, when engaging with counterparts, due to the ethnicity of one member of the negotiating team, "People wouldn't even shake his hand. You take him out of the negotiation, the negotiation goes in an entirely different direction. We just had the wrong person in that role, based on what was happening culturally, contextually in that place. Those nuances are often not recognized." These comments suggest the need for diversity in the field team and mindfulness about determining whom on the humanitarian side will lead, participate in, and be present for the negotiation.[32]

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[31] Ibid., at 18-20.

[32] For more on these issues, see "Good Practice Review: Operational Security Management in Violent Environments," Humanitarian Practice Network, Overseas Development Institute, December 2010, pp. 63-65, http://odihpn.org/wp-content/uploads/2010/11/GPR_8_revised2.pdf.

IV.   Cultivating Negotiation Capacity: The Pathway Forward

Whereas the previous section addressed how one can conceptualize negotiation capacity, this section illuminates key aspects of the pathway forward. Based on the interview findings, it is clear that capacity building efforts will face three key difficulties, which one could refer to as: 1) the "negotiation cognizance" gap, 2) the "experiential learning" paradox, and 3) the "generalizability versus context-specificity" puzzle. This section will elaborate on these three issues.

A. The "Negotiation Cognizance" Gap

The view was widespread among interviewees that negotiation is an essential component of humanitarian action. Indeed, in the words of various interviewees:

- "So much of humanitarianism is about negotiation."
- "Representing an organization that is engaged in all levels of humanitarian work, it comes through in all the work that you do."
- "I do think that humanitarian actors in the field are always negotiating. We have to capitalize on this somehow, find ways and means of drawing lessons and to develop more guidance."

As suggested by the examination in Part II of the perceived broad scope of humanitarian negotiation as a concept, interviewees found negotiation to be relevant to engagements across various types of contexts and interlocutors. The following interviewee quotes further elaborate on this notion:

- "I came across negotiations in all of these different locations but in different forms. Whether it's at a very local level, negotiating with a local policeman at a camp, or at the higher strategic level, it's been applicable in all the places where I've worked but at very different levels and circumstances."
- "You are surrounded by different actors, be it authorities, be it non-state armed groups, or be it the actors of the humanitarian community itself. Because of the different interests, or simply different ways of operating, it's immediately evident that negotiation is a part of your daily work at multiple levels."

Taking this idea one step further, one can consider negotiation to be an inherent and necessary aspect of humanitarian work, as the following interviewee quotes suggest:

- "Negotiations on the ground, in the field, are essentially totally necessary, required for anything you want to do while responding to an emergency."

- "It's mandatory because working in any country, in any region, you need to have the license to operate by the authority in place or by the person who controls the area. So if you want to work there, you have to negotiate."
- "For me, it's kind of self-evident that, without [negotiation], you won't be able to [enter a conflict zone]... You want to create what is now called… the humanitarian space… It is also nobody else's responsibility to create that space. The military creates military space. Politicians create political space. So if you say, 'I'm a humanitarian agency,' it's your job, your duty to create that space."

But despite the prevalent acknowledgement of the central role that negotiation plays in humanitarian action, interviewees observed the persistence of a phenomenon that one could call a "negotiation cognizance" gap. The essential problem is that many humanitarians do not have negotiation on their conceptual radar at all, meaning that they lack an awareness of the role that negotiation plays in their work. The following quotes reflect this reality:

- "We negotiate many things but often don't think about it that way. We don't think we are negotiating."
- "We don't probably realize that it is a negotiation most of the time."
- "It's something that many of us do, but the problem is that many of us are not aware that we're actually doing negotiations… We're very rarely aware that what we're doing is negotiating access, or entry, or a starting point to work with people… We do it much more than we think we actually do."

The process of closing this gap entails three steps. The first step is simply recognizing the possibility that complications might arise. Many interviewees expressed that, upon first entering the humanitarian sector, they lacked a rudimentary understanding of the difficult dynamics at play in the field environment:

- "I went into this business really blind as a young, eager beaver, enthusiastic humanitarian worker, thinking I would save the world, and had no concept of the need to do humanitarian negotiation, or even what it was. So basically, I've grown to understand the importance of it over time, but originally I had no training in it, no concept of what it was, no knowledge of the rules, et cetera."
- "I wouldn't say that I even had a framework for what negotiation means in the back of my mind when I started my career... I didn't have a deep understanding of all the complexities of working with local governments, let alone non-state actors, let alone some of the highly complex various interest groups at the community, state, or national level."

- "At the beginning of my career, I had no idea [that negotiation would be a part of my work]. I was projected into a scenario I didn't really know. But I never really had knowledge of negotiation. I would say I learned by doing. So I found myself involved in negotiations without having a full understanding of the situation."

Surmounting this first step, for many practitioners, transpires automatically upon exposure to the field. In the words of one interviewee, "As long as you are physically trying to enter one of those conflict zones, it won't take you long within that journey to realize that you have to negotiate your way in. It's not a given that you're just granted access by those that hold power."

But then comes the second step: adopting a strategic approach to grappling with these difficulties. Numerous interviewees stated that they tended not to use the word "negotiation" when discussing access and protection issues with colleagues in the field, but rather, used alternate vocabulary, thinking of their interactions and objectives through the lens of an "access strategy;" "how we manage relationships;" marketing, by which humanitarians seek to "sell" the idea of what they are doing to local actors; "getting buy-in;" or "getting someone on board." As these comments suggest, humanitarian practitioners can certainly plan and think about these engagements in a strategic manner without considering these interactions to be "negotiation."

In the third step, humanitarian actors explicitly turn to negotiation as a framework to inform strategic thinking and planning. This third step specifically invites the application of tools, guidelines, and practically applied theories drawn from the broader domain of negotiation studies. As various interviewees stated:

- "Another challenge I can think of is that we are probably not very conscious that a negotiation is already taking place. We are a bit callous and reckless. The awareness that you are actually engaging in a negotiation sometimes is not there. And because of the lack of awareness, we sometimes don't make use of the tools that we actually have, or we don't do the homework. We don't analyze things. We don't prepare ourselves to enter into the negotiation. I think that is a huge danger."
- "I think a little more awareness would help the humanitarians as they do their job, that there's a lot more to win there, or a lot more danger to be mitigated."
- "[It is important to go] in understanding that it is a negotiation, even just a basic sense that that is what you're doing in those contexts. And then some understanding of how to prioritize. Going back to: how far should I go in this? Certainly, in my experience, it's not always understood that you're entering into a negotiation, so you don't then enter into it with parameters."

- "I think [viewing our access discussions as negotiations] encouraged us to undertake a separate set of activities rather than simply continue to work as if it was normal practice of talking your way through a checkpoint and just fulfilling your day-to-day activities… We started doing actor mapping. We started looking at the different personalities and interests and where they fit into the organizational structure. We started looking at techniques and relationship building."

One interviewee discussed his view of the particular usefulness, in humanitarian contexts, of the "integrative" model of negotiation, first outlined by Roger Fischer and William L. Ury in their seminal book, *Getting to Yes: Negotiating Agreement Without Giving In*. This interviewee stated:

> I believe the seven elements of negotiation—relationship, communication, interest, options, standards of legitimacy, alternatives, and commitment—describe any negotiation that is conducted, whether it's formal, non-formal, verbal, non-verbal, in the humanitarian context, in the private sector, or public sector. It describes what is happening… There are all sorts of cross-cultural challenges, language challenges, and context differences. And I think that impacts the extent to which different elements are used and prioritized, but I think the essential rubric stays the same… Yes, there are lots of contextual differences. Yes, there are lots of cultural differences. But I believe that the essential framework is still useful for defining what would be a good outcome of a negotiation, preparing for a negotiation, conducting negotiation, and reviewing the process when it's done to figure out what worked well and what could be done better.

Two other interviewees concurred, noting that, at least in their experiences, the *Getting to Yes* framework has been useful:

- "When I was a graduate student, we did the whole *Getting to Yes* approach, and I've always found that to be persuasive, even though it may be dated now. This whole idea of understanding what your interests are and then identifying what the interests are of the people with whom you're engaging, and then finding common interests. In my experience, there are always common interests in which you can find agreement."[33]

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[33] It is important to note that this interviewee's perception that "there are always common interests in which you can find agreement" reflects his particular negotiation experiences. The interviews revealed

- "Most of those principles [from *Getting to Yes*] are directly applicable to humanitarian work… You want to get to a win. And if you don't give them something, you won't get anything. There has to be a compromise at some point."

Although many humanitarian organizations are actively working to close the "negotiation cognizance" gap, there was great variation across interviewees in terms of their exposure to capacity building activities. Some had participated in trainings, workshops, or on-the-job mentorships that they had found to be incredibly valuable. Others had received no professional development related to negotiation whatsoever. One such interviewee stated that negotiation training would be helpful to learn "just the fact that it happens, and at all levels," noting that simply "getting it on the radar" would be useful. Echoing this sentiment, another interviewee stated, "I'm surprised that there's not more training on negotiation, even as a way of thinking about what the conversation is."

B. The "Experiential Learning" Paradox

Even if organizations direct sufficient resources to closing the "negotiation cognizance" gap, another issue remains: the "experiential learning" paradox. In the words of one practitioner, negotiation is "really important, and you can't undercut it at all. Every word has an importance, and the way you deal with people has a lot of value and impact. Even unspoken signs are really important." For this reason, ideally, only skilled negotiators would undertake the task. However, cultivating negotiation competency is an experiential learning process in which failure, and learning from mistakes, plays a key role. As various interviewees stated:

- "Many people in similar positions to mine are just fumbling through and trying to figure it out. So it becomes quite hard then to articulate, 'these are the skills I need.' It's been a lot of trial and error. I've been doing it for so long that I guess I just sort of feel like I know how to do it now."
- "Experience is also a key enabling factor. It gives you reference points to gauge what is acceptable/unacceptable, normal/not normal, what the limits are."
- "We get skills by doing it… All of my skills, I have learned by doing it."
- "One discovers that a lot of it is simply individuals who have been thrown into situations and have somehow learned to swim and fly by themselves."

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numerous other examples in which practitioners offered reflections on contexts where they did not deem interests to align and did not perceive an adequate negotiated outcome to feasible.

The paradox is that, in light of the inherently experiential nature of developing negotiation capacity, humanitarians will need to engage in negotiation before they possess expertise to do so. This paradox is aggravated by the fact that, although it might be ideal to have a select coterie of expert negotiators solely responsible for negotiations, as this paper has described, the realities of the field environment require negotiation from a broader set of aid workers. Such a scenario is by no means unique to negotiation. Indeed, experiential learning is an essential component of professional development in a wide array of professional fields.[34] However, considered in tandem with the persistence of the "negotiation cognizance" gap, the risk is that the "experiential learning" paradox will not be effectively mitigated.

How can humanitarian organizations manage this situation? Interviewees' comments indicate the importance of a multi-pronged approach involving a combination of adequate induction training, on-the-job mentorships, opportunities to observe negotiations before participating in them, debriefs in which professionals can reflect on their negotiation experiences, and trainings offered on an ongoing basis.[35] One interviewee emphasized the long-term nature of the negotiation learning curve, stating, "You can't just study a book on negotiation or read a Harvard study on negotiation and then immediately begin to apply that in a complex environment." For this interviewee, "a lot of practice and gaining confidence" was crucial to his process of developing skills. Comments from another interviewee confirm this notion. After decades of fieldwork experience, she had recently participated in her first one-day negotiation workshop and said of the experience, "I saw a whole lot of tools. You know when someone takes your thought process and partitions it out for you so you become more deliberate about it? To me, that was really, really useful." Indeed, cultivating negotiation competency requires that training be placed in conversation with practitioners' trial-and-error experiences, in order to feed into a career-long process of learning lessons from past successes and mistakes.

C. The "Generalizability versus Context-Specificity" Puzzle

Building on the previous two sections, even if the "negotiation cognizance" gap has been closed, and even if practitioners, with sufficient organizational support, direct substantial energy toward learning lessons from past experiences to mitigate the

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[34] One can trace scholarship on experiential learning as a pedagogical methodology to John Dewey, *Experience and Education* (New York: Macmillan New York, 1938).

[35] For a valuable examination of the dynamics of building negotiation capabilities throughout an organization, see generally Hallam Movius and Lawrence Susskind, *Built to Win* (Boston: Harvard Business Press, 2009).

"experiential learning" paradox, it is difficult to know what lessons one should learn. One interviewee expressed frustration with colleagues whom she has observed reading material on negotiation but then proceeding to make the same mistakes in future practice. These practitioners, she noted, had trouble linking this material to their own practice and would erroneously blame their failures on irrelevant factors, thus avoiding critical self-reflection. Taking this notion further, another interviewee asserted that it is sometimes impossible to accurately discern what factors drive outcomes. Given the vast array of factors potentially relevant to a negotiation's outcome (e.g., negotiation skills, organizational reputation, or personal connections), this interviewee stated that upon evaluating an effective negotiation, "You don't know what the piece is that has made that work, which makes it hard to identify the skills and hard to train for it."

Furthermore, negotiators cannot know what would have occurred if other options in a negotiation—for example, using a different approach or replacing the negotiator with one who has a different identity profile—had been pursued. In this sense, the "fundamental problem of causal inference" is relevant to analyzing past negotiation experiences.[36] This "fundamental problem" is that negotiators, obviously, cannot go back in time to test the possibility that a different approach would have been effective. Therefore, if a negotiation fails to reach a satisfactory outcome, it is impossible to know with certainly whether success was ever possible at all.

Can useful generalizations be drawn at all from negotiation experiences? In response to this question, interviewees fell into three camps. The first camp leaned toward context specificity. One interviewee fitting this category stated, "I'm not sure you can make a generalization. I think that every context is different and every actor you have before you is different." Another forcefully concurred, "What makes negotiation particularly complicated is that it will never be the same… This is an important point: trying to replicate and impose those models in a different context, thinking that it's going to yield the same result because it's the same situation. That's a recipe for failure, I'm afraid."

A second camp expressed a more mixed viewpoint, accepting that some lessons can be carried forward, while noting that others cannot and that these two aspects can be difficult to untangle. In this vein, one interviewee stated, "I think there's a lot that can

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[36] For a good overview of the "fundamental problem of causal inference," see generally Paul W. Holland, "Statistics and Causal Inference," *Journal of the American Statistical Association* Vol .81, No. 396 (1986): 945-960; as well as Gary King, Robert O. Keohane, and Sidney Verba, *Designing Social Inquiry* (Princeton: Princeton University Press, 1994), 76-82; and Thad Dunning, *Natural Experiments in the Social Sciences: A Design-Based Approach* (Cambridge: Cambridge University Press, 2012) 109-121.

be taken from different contexts. But also, assumptions I've made here [based on past experiences] have been completely wrong."

A third camp leaned heavily toward the value of informed generalizations. In the words of one interviewee, "I'm always a bit wary of people who cite context as being so special. In my experience, and I can say after twenty years, I can make extrapolations based on my experience: the similarities are far, far greater than the differences." Another interviewee, squarely in agreement, criticized the "context-specificity" perspective:

> The problem in my work is, everybody will say… "Unless you've worked here a long time, you don't know how to negotiate here." That's actually not the case. A lot of people who have been here for years are just so burned out, somebody should just give them a pension. They're just really burned out. It's a mixed bag to have been here a long time. There are principles that work really well here that worked well [elsewhere]… They're not unique. People in my line of work want to say, "It's unique. That was context-specific." It's really not.

Hence, the "generalizability versus context-specificity" puzzle constitutes the third link—in addition to the "negotiation cognizance" gap and the "experiential learning" paradox—in the negotiation capacity building chain. Two particular approaches—in addition to the measures already mentioned in this section (e.g., induction trainings, on-the-job mentorships, opportunities to observe negotiations before undertaking the task, and trainings and workshops offered on an ongoing basis)—are likely to move the humanitarian sector closer to a more informed approach to this puzzle. First, organization-wide, or even sector-wide, peer-to-peer engagement could offer the potential for practitioners, through professional exchanges across contexts, to gain insight into which elements are generalizable and which ones are not. Indeed, such an effort could assist in discerning trends in negotiations across different contexts and involving different substantive issues and interlocutor types. Second, scientific research and analysis of past negotiations could infuse a greater degree of rigor into this process. It is important that the pathway forward is rooted in an informed assessment of what has transpired in the past.

However, it is also relevant to emphasize that, when envisioning efforts to share professional perspectives on past experiences, the confidentiality of humanitarian negotiations presents an obstacle in need of surmounting. On this point, numerous interviewees highlighted the confidential nature of their negotiations. In the words of one interviewee, "People are more comfortable moving their positions if it is confidential," a comment that indicates that confidentiality can be an essential

component for success. Interviewees also discussed a range of possible repercussions if confidentiality is not maintained. In at least one context, a lack of trust inhibited information sharing with colleagues even within the same organization. Another interviewee spoke of the importance of maintaining confidentiality in order to avoid the risk of "a security issue for your counterparts." There is also the possibility that confidentiality can be driven by concerns about legal repercussions due to counterterrorism restrictions.[37]

In terms of sharing information about negotiations across different humanitarian organizations, one interviewee spoke about "a culture of secrecy" that tended to inhibit inter-organizational coordination. This interviewee perceived, "I think that's due partly to the fact that it's a process where you compromise your identity, you negotiate things which you know you shouldn't be giving away but you have to give away, and you probably don't want to do that openly."

Thus, there is a tension between the confidentiality demands at the operational level and the information sharing required for an effective organization- and sector-wide professional development process. As one expert on developing organizational capacity for negotiation has stated, one can envisage this issue in terms of two inter-related tensions. The first, related to the "generalizability versus context specificity" puzzle, is the tension between the need for "situational judgment" (the elements of negotiation that "must be dealt with case by case") and "standard negotiating procedure" (the "elements of negotiation strategy [that] can be specified in guidance").[38] The second is the tension between "constructive ambiguity" (by which humanitarian actors adopt a "don't ask, don't tell" approach to their negotiation experiences) and "organizational coherence and learning" (by which humanitarians seek to "orchestrate strategy and roles" and "learn together").[39] The words of one interviewee eloquently summarize this tension:

> Especially in the extreme, extreme situations where you need to be very secretive and very confidential, and you cannot share the information even with your peers—for example, in a hostage negotiation situation, you cannot share that information—it comes with a lot of loneliness. Sometimes, you need the emotional and psychological support of someone who's been there, who's done

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[37] Jackson and Giustozzi, 2012, p. 6.

[38] David Fairman, Presentation on How to Build Capacity of Humanitarian Organizations to Negotiate, referenced in "Annual Meeting of Frontline Humanitarian Negotiators: Final Report," Centre of Competence on Humanitarian Negotiation, 2016, p. 21.

[39] Ibid.

that, and who can tell you, "Listen, this is how I did it." So all of these assets, I think, today are very important."

As these comments suggest, on the one hand, the various aforementioned operational considerations can lead humanitarians, as one interviewee stated, to keep "our cards close to our chest." On the other hand, this "culture of secrecy"—even if driven by legitimate operational, security, and/or legal concerns—can stand in the way of efforts to provide negotiators with much needed professional support.

V.   Conclusion

This paper concludes by revisiting the anecdote discussed in the introduction, in which a humanitarian practitioner was unexpectedly drawn into negotiating with an army captain on air logistics issues and, despite a lack of negotiation training, evinced a natural ability to execute the task superbly. The interview findings discussed throughout this paper make clear that the humanitarian sector cannot rely on luck to determine that the right people fall into these roles. As this anecdote illustrates, luck ran out when the replacement, equally untrained but lacking natural negotiation instincts, was less successful at pressing the captain to maximize the humanitarian organization's influence over the flight schedule. The humanitarian sector has begun to take control of and steer the much-needed process of professional development. The findings of this paper aim to inform questions about how and where humanitarian organizations should direct negotiation capacity-building resources moving forward.

The core, overarching theme that this paper suggests is the desirability of a holistic approach. In terms of conceptualizing the scope of humanitarian negotiation, the interview findings indicate that, contrary to approaches that have sometimes previously been adopted, one should not view this domain as applicable only to engagements with governments and NSAGs in the context of armed conflicts. Indeed, practitioners face difficulties when negotiating with numerous types of interlocutors about a wide range of substantive issues in several different types of contexts, including not only armed conflicts but also non-conflict, natural disaster and health emergency settings, and even contexts removed from conflict zones and disasters settings. Nevertheless, as this paper described, opening up humanitarian negotiation as a concept brings forth the conundrum of how this notion should be delineated.

Regarding how one should envisage negotiation capital, it is clear that humanitarian organizations should not limit trainings, workshops, and guidance to the cognitive dimension. Other types of negotiation capital—emotional, social, and cultural—are also crucial aspects negotiation competence. Furthermore, the process of cultivating capital

is both individual and organizational in nature. On the individual level, it will be important for practitioners to devote themselves to a career-long process of developing, sharpening, and maintaining a negotiation skill-set. At the organizational level, it will be important to devote sufficient resources to facilitate this process and to develop sufficient institutional memory, so that lessons learned can be carried forward.

Furthermore, the spectrum of difficulties likely to shape the pathway forward—including the "negotiation cognizance" gap, the "experiential learning" paradox, and the "generalizability versus context-specificity" puzzle—suggest the importance of a multi-faceted approach. Induction trainings, guidance documents, workshops offered on an ongoing basis, informal and formal professional mentorships, and post-negotiation debriefs, among other measures, will all need to play a role in the negotiation capacity building process. The aim should be to sufficiently equip practitioners with relevant tools before they negotiate, facilitate the process of learning lessons on an ongoing basis over the course of practitioners' different negotiation experiences, and ensure that forums exist where past negotiation experiences can be shared.