



**Arab American University  
Faculty of Graduate Studies**

**The Impact of the Humanitarian Negotiations and  
Challenges at the Conflict Zones, with the implementation of  
IHL.**

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Development.**

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## Abbreviation

<b>CLA</b>	The Coordination and Liaison Administration to the Gaza Strip
<b>COGAT</b>	The Coordinator of Government Activities in the Territories
<b>DRC</b>	The Democratic Republic of the Congo
<b>EU</b>	European Union
<b>HoM</b>	Head of Mission
<b>ICC</b>	The International Criminal Court
<b>ICCPR</b>	The International Covenant on Civil and Political Rights
<b>ICJ</b>	The International Court of Justice
<b>ICRC</b>	The International Committee of the Red Cross
<b>IDP</b>	Internally displaced person
<b>IFRC</b>	The International Federation of Red Cross and Red Crescent Societies
<b>IHL</b>	International Humanitarian Law
<b>IHRL</b>	International Human Rights Law
<b>IL</b>	Israel
<b>IL/OT</b>	Israel and the Occupied Territories
<b>MoFA</b>	Ministry of Foreign Affairs
<b>MoH</b>	Ministry of Health
<b>MSF</b>	Médecins Sans Frontières / Doctors Without Borders
<b>NGO</b>	Non-governmental organization
<b>OCHA</b>	The United Nations Office for the Coordination of Humanitarian Affairs

#### IV

<b>OPT</b>	Occupied Palestinian Territories
<b>PA</b>	Palestinian Authorities
<b>PLO</b>	The Palestine Liberation Organization
<b>PNC</b>	The Palestinian National Council
<b>POW</b>	Prisoner of War
<b>PWA</b>	Palestinian Water Authority
<b>UN</b>	United Nations
<b>UNICEF</b>	United Nations International Children's Emergency Fund
<b>UNURWA</b>	The United Nations Relief and Works Agency for Palestine Refugees in the Near East
<b>WHO</b>	World Health Organization

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## **Abstract**

With the enormous challenges the world is facing at almost every part of the humankind living conditions, the catastrophic events both man made and natural disasters that makes it worst.

NGOs, civil Societies and International organizations contributed greatly in the Humanitarian actions, while they have principles at the operating functions level and duties.

This research will introduce and link some essential infrastructure analysis that supports the Humanitarian Negotiations process which is the main core to start up and open the roads for all staff members to perform the humanitarian aid in a well secured and successful method.

Humanitarian Negotiations is unique and consists a very important level at any international organization or NGO, the process itself could be very long and in other context it should be urgent, while the main goal is to insure protection and assistance for those who are vulnerable and effected by an armed conflict, it goes through different stages to maintain an agreement with parties of the conflict, and it could be taking place in a bilateral or multilateral methods between humanitarian actors cooperating with each other and sides of the conflict, were sharing development and assistance objectives but in different fields, these objectives could be perquisite to be maintained to make a complete humanitarian action at a needed context.

The appearance of humanitarian actors at any conflict creates a monitored atmosphere as well awareness of laws and rights, the detection of the violations and the needs of assistance level as well the keeping on human been living in dignity and rights,

meanwhile through negotiations and building relations with both sides of an armed conflict creates an enormous impact at the real ground.

The International Laws are the tools that creates the main foundation and the core support for any humanitarian negotiations taking place at any conflict, it creates the track and the objectives strategic actions for humanitarian actors, the International Humanitarian Law and Human Right Laws introduction and implementation as well monitoring and follow up will be the life savior for civilians and all those who are not involved at an armed conflict.

Humanitarian Negotiations is a tool term which goes through different stages in order to reach achievement. Pre-actions and considerations should be taken before implementation.

Who is using this tool, how and why is it taking place, and what kind of challenges the journey goes through? How does Humanitarian Negotiations, contributes with practical success in the field, meanwhile Aid and Relief accomplishment as a result.

The main characteristics of this term are the actors as well the objectives of the negotiators, were it takes place at the countries in which effected by armed conflicts, between the parties to the conflict and conducted wars.

UN agencies and NGOs are the main role players at the Humanitarian negotiations actions, by doing the negotiations comes in front the main humanitarian objectives of this action, which are Humanitarian access, protection, assessment and assistance and setting up the respect for the international laws.

Humanitarian Negotiation is very important for the humanitarian actors, usually they are staff members who need the access to the parties who are responsible for the conduct of war.

The Objective of this study is to address the different types of challenges and obstacles, and how should be handled through with success rate once done by the diplomacy and Negotiation levels strategies. The adaptation methods and theories must be modified in accordance with each context. This research is the result of collective literatures summaries within linking in between, followed by opinions and remarks from practitioners on the real ground.

The knowledge of the IHL is crucial for those who are willing to negotiate within the humanitarian context, which is a clear difference to Human rights advocacy,

The facilitation and the understanding on the know how of the Humanitarian Negotiations and Diplomacy would be implemented successfully when taking in considerations all the variables and a clear understanding of the surrounding environment, this research should serve as a manual and an assistant to who it may concern.

This study is significant as a contribution to the Humanitarian sector and activity which results to protect individuals and those who are in need of aid and the falling victims of crucial armed conflicts and wars.

Violations of International Laws creates a clear humanitarian need and the impact occurs to the basic human needs which have to be the responsibility of States and Non-Governmental Organizations, on the other side comes the direct actors of the conflict.

## **Chapter 1**

### **Introduction**

## 1.1 Introduction

The word Humanitarian is itself a huge debate for those humanitarian actors, the aim of protecting people, their rights, their cultural properties and livestock, from an armed conflict or a national, Social and judicial injustice, even participating at a sustainable economies, Internal displaced persons (IDP)s and refugees protection, creating rules and norms at a national and international levels to save lives of the vulnerable groups who are affected by the conflicts as well the reduction and monitoring levels of violence.

Many NGOs, the UN, the International Red Cross and Red Crescent Movement as well many International Organizations worked with states and government in all atmospheres with slight involvement in nation building in some cases, non state actors to access and deliver aid and assistance to victims, on society levels pursuit economic development, and health assistance such as anti viral medicines, the size of the operation could vary from very large to small local community NGO.<sup>1</sup>

Meanwhile, it is important to address the changes of the armed conflicts that is taking place world wide after the second half of the twentieth century, the classical international armed conflicts has decreased after the year 1945, these conflicts became more complex and divers in actors and role player in between internal and cross borders confrontations, were many of these actors are posing unethical and grievance actions against civilians who fall between the lines of the conflicted parties.

Future wise, it is expected that violence and humanitarian needs will increase in the coming years, many examples which is taking place at the present such as the drug wars

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<sup>1</sup> L .Roeder Diplomacy and Negotiation for Humanitarian NGO, Springer, P-9

taking place at the Latin America, the unstable political situations in North Africa and the Middle East conflicts are all the reason behind the killings of thousands each year.

Other two intensive factors that change the nature of the modern conflict are the urbanization and the growth of population in large cities, which turned to be the battlefield between many different political and ethnic factions.

An estimated number of 750,000 deaths according to a report, is the result of conflicts and violence each year, beside the large amount of injured and psychologically harmed victims, economic and development are affected directly and harms the most vulnerable societies in the armed violence.<sup>2</sup>

### **The Topic/ Problem**

Humanitarian Negotiations is a tool to be used in conflicts by Humanitarian actors, whilst challenges faces humanitarians during the implementation, this research will tackle the main augmented topics in this regard, and will measure different aspects of this subject, as well to link between Humanitarian Negotiations and its challenges during the implementation as well the practical part within the implementation of the International laws, since the International Human Rights and Humanitarian Laws are the fundamental principles dealing in when performing this tool.

The case study will be the Palestinian Israeli conflict as well showing the main international laws violations and links to the IHL and IHRL.

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<sup>2</sup> The future of humanitarian action: an ICRC perspective, Volume 93 Number 884 December 2011

## **Research Question and Hypothesis**

### **-Research Question**

What is the impact of Humanitarian Negotiations contribution at the humanitarian action, what kind of facilitation does it provide for the humanitarian bodies. How could practitioners at this field customize and adapt this process in order to achieve success, and for which level does the IHL is binding the parties of the conflict at the times of war.

### **-Working Hypothesis**

How Humanitarian Negotiation impacts the Governmental or non-state actors in the conflict do accept or abide the humanitarian principles under the IHL to respond and insure humanitarian access to those who need.

### **Possible Obstacles**

The refusal of individuals to provide information as some details might sound sensitive regarding their positions as well the existence of confidential information. And some questions might be against the fundamental principles.

As there will be several subjects to be discussed and analyzed before reaching conclusions, which is the purpose to make a clear image of the humanitarian Negotiations and the surrounding environment, time is crucial to finalize this research, Believing that, this research could address several matters and questions for further contributions to other students.

As well it meant to address the challenges at the implementation, also to create awareness on how to adapt change and the readiness for it before actions.

## **Literature Review**

During my graduate studies period I was able to be introduced to many theoretical paradigms, Peace studies literature, Psychological and Social Sciences with many practical approaches, in parallel with my assignment at an International humanitarian committee, sensing the levels of awareness and challenges faced during the duties in this context.

This research was done after going through several books, articles and interviews, previous similar studies assisted in finding the right direction to follow, additionally available online information and publications was also used to create the structure.

The Humanitarian Aid actions in which is taking place in several contexts referenced and applied by Government and None Government Organizations, United Nations, and several cooperated movements, which are usually supported by International Conventions, International Laws, Foreign Policies and International Charters.

The need of Humanitarian Aid emerges because of an armed conflict, the shapes of this aid varies in response to the needs and context, that comes with different images for who performs it, in regard with their specialty at The Humanitarian space.

The role of NGOs fills a gap at the Humanitarian actions; meanwhile challenges occur during the process.

Comes the Humanitarian Negotiations as a diplomatic tool practice and studied on constant biases, which is the facilitation road for those who are in the field to keep on performing the Humanitarian Aid successfully.

During this work, I have been introduced to different case studies related to the subject, accomplishments and lessons learnt by practitioners.



The concept of Humanitarian will be clarified and the basics linking the Negotiations involved.

NGOs role in being the force for sovereignty of people in protecting civilians, how does the diplomacy of an NGO lead to success of its Humanitarian goal. Further explanation will be followed by showing the Models of Diplomacy and Negotiations, stages, examples and how decisions are taken, in addition to the role of the Negotiation staff at the delegation situation.

Some models of Diplomacy and Negotiations will be mentioned, and clarifications of the Implementation procedure, the strategies to be taken, the needed cooperation to be build and the different types of Humanitarian Negotiations happening, a comparative of the action to be measured by the input and the impact of the process during the implementation.

The last stages after accomplishing the Aid and duties comes the responsibility of monitoring and following up, cases when development plans are set after a catastrophic humanitarian disaster.

It is very clear for Humanitarians obtaining their mandate as the reason of power in implementing the duties, therefore comes the International Laws to be the manual of the movement.

And supported the study with the Palestinian Israeli Conflict to measure which International Laws from both International Humanitarian Law and International Human Rights Law violations, as well as arguments between both parties beside the results to be mentioned in the coming writings.

**Methodology**

This research was collected and analyzed from previous studies done in the field as well books that have been published by professionals at the humanitarian action, such as NGOs and UN reports, theoretical and practical work will be analyzed and compared in order to answer the questions, remarks and direct answers by practitioners in this field who are directly involved at this topic within this context. The output of the research question and hypothesis will discuss many impacts and endless points of view, ideas and probably further researches.

The main methodology that will be followed at this research will be qualitative, then linking between the literature review starting with the Humanitarian Negotiations and the International Humanitarian Law as well the International Human Rights Law that is taking place at the Palestinian Israeli Conflict.

Individuals who are directly involved at the humanitarian actions are based in Jerusalem will provide answers on the challenges faced during their duty, as well additional remark and opinions will be written down. Analyzing the result by the Coding method from directly answering the questions, after making a clear explanation of each step and how the methods and definitions are linked.

## 1.2 The Causes of War

There was hopes of peace after the end of the cold war on 1989, but more than 120 wars and countless armed conflicts took place after that worldwide.

It seems that less than %10 wars happened between states, the rest is happening internally, so in the coming section comes the main causes of wars.

- Poverty: it is to be seen that much of civil wars rises in the poor countries, people can't meet their needs, leading to conflicts over resources.
- Rights: resulting in an uprising shape of conflicts mainly in states extreme abuse of Human Rights, torture and extra-judicial executions, police and prison violence,
- Political System: Freedom, the rule of law and peace came altogether with the new democratic transition, democratic states do not go to war against each, but mostly to experience civil wars, as democratic states are unstable once compared with dictatorship countries, so civil wars comes to happen once an uncertain democracy system to run or the involvement of one dictatorship party as well the rules of the game is unclear and not well established.
- Ethnicity: it is too being commonly seen that neighboring countries with different ethnicities to be in peace, but the differences offers rich opportunities to political ideologies and leaders to plant wrongful fears and illusions to blame outsiders or minorities for what is wrong in their lives, the poverty and undemocratic environment will increase the conflict in such context.<sup>3</sup>

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<sup>3</sup> D. Smith and A. Braein, The Atlas of War and Peace., Earthscan 2003(P 8-1)

### **1.3 The Nature of Modern Conflict**

- International Armed Conflict: it is when a state uses its military forces against another one or many states, also this concept is applied to military occupation over a territory, parties of this conflict should be aware of their obligations under IHL.
- Non-International Armed Conflict: also known as internal conflict, a shape of state armed forces against armed groups, dissident or rebel, each party of this conflict is bound to apply the humanitarian provision of the International Law as commanded in Article III common to the four Geneva Convention.
- Internal violence and tensions: also known as internal security disturbance, not covered by IHL, but by International Human Rights Law and domestic laws.<sup>4</sup>

### **1.4 The Fundamental Humanitarian Principles**

All Humanitarian activists are guided by four main principles which are the foundation of their actions, whether at a natural disaster or an armed conflict, these main principles are the reason behind maintaining access to the vulnerable groups and victims.

In Geneva 1986 these principles were set as the introduction of the movement statutes due to their importance at the 25<sup>th</sup> International Conference of the Red Cross, and to be respected by the National Societies as well to spread the knowledge of these principles, calling governments and states to respect the movements committing to the components of these principles.

Then were originated by the long work and experience done by the International Committee of the Red Cross and Red Crescent society as well been adopted by many Humanitarian Organizations all over the world.

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<sup>4</sup> D.L. Roberts, *Staying Alive*, ICRC 2005 (P23-26)

Humanity, Neutrality and Impartiality principles are endorsed in 1991 General Assembly Resolution 46/182, meanwhile in 2004 the fourth key principle of Independence was added at the General Assembly resolution 58/114, as it has been always emphasized by the General Assembly the importance of respecting and implementing these principles by the Humanitarian framework.

Many Humanitarian Organizations committed to these principles at an institutional level, as well more than 492 organizations have signed the Code of Conduct which is the core of the International Red Cross / Red Crescent and many non-governmental organizations as a set of standards for the involvements in the humanitarian activities.<sup>5</sup>

## **1.5 Humanity**

To locate every human suffering and bring assistance without discrimination to the wounded in the battlefield, the protection of life and health by ensuring dignity and respect to all human beings.

## **1.6 Impartiality**

Humanitarian actions must make no discrimination when providing assistance of nationality, race, religious, political view, and should carry out the duty alone by prioritizing the most urgent need of distress.

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<sup>5</sup> OCHA on Message: Humanitarian Principles

## **1.7 Neutrality**

Humanitarian actors and the movement must not take any side of the hostilities or participate in a political controversies, race, religion and ideological nature, by implementing this principle it will be providing the confidence of everybody.

## **1.8 Independence**

Humanitarian actions should be independent from any political, economical and ideological interference, and should be autonomous from any side that pushes them away from the first three principles, such as accepting a financial contribution under the condition to be used to specific ethnic or political criteria.<sup>6</sup>

## **1.9 NGO and International Organizations Diplomacy**

"The decision to engage in humanitarian diplomacy is not a choice, but a responsibility". Humanitarian Diplomacy Policy, the IFRC, (IFRC 2009)

"If we are going to help people whose lives hang in the balance, we need to reach them. This means negotiating with government officials, high-ranking military officers' clan elders and rebel leaders." (Neuman 2012) MSF, USA, 2012.

It means the effort done by an NGO or its alliances to convince a state government or an official structure in within to do something very particular and specific, something that could change the direction of a United Nations resolution,

NGO diplomacy could extend by also convincing an armed non-state actor to let them access and support a medical assistance, or even negotiating for an international convention or creating an alternative to some government treaties.

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<sup>6</sup> ICRC publication 1996 ref. 0513/ The Fundamental Principles of the Red Cross and Red Crescent

Some negotiations might appear as gaining agreement from non-state armed actors to agree and abide of commitment of its combatants with international norms that is only taking place in state to state treaties.

For new or small NGO lobbying could be a great approach to build a reputation in a specific context, as to participate in the negotiations with government and international organizations, playing a role in reducing the conflict and supporting the global economy with peaceful environment, as well the protection of human beings from violence, also to participate in shaping historical treaties and the born of a UN resolution,

Additional practical views on NGO diplomacy is moving relief supplies and obtaining working permits and visas,

Some arguments mentioned that NGOs are often too apolitical, so they can be efficiently operational, and after several studies in this regard some recommendations addressed the NGO diplomacy is all about the daily practical changes adaptation and advancing strategic challenges.

"Realpolitik"<sup>7</sup> supporters argues that the diplomacy of the government should be directed on how the real world is and what is better to the government interests rather than wasting time and effort on how the world should look like, by focusing on the techniques not the visions.

NGOs diplomats should be aware of the real world and professional in the practical techniques, but never loosing their hopes of a better vision and a better tomorrow, by keeping the considerations that NGOs are the people, avoiding any political interruption or a financial interference control.

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<sup>7</sup> Realpolitik is politics or diplomacy based primarily on considerations of given circumstances and factors, rather than explicit ideological notions or moral and ethical premises. In this respect, it shares aspects of its philosophical approach with those of realism and pragmatism.

With the challenges of the twenty first century many smart solutions came from other sides compared to those who come from a governments, with an estimation of the world wide conflicts impacts over half a billion people in more than 45 countries next to a numerous population not protected from natural phenomena, governments should value the partnership of the NGOs who fulfill the empty gaps needed to the people, The UN, the governments and many international organizations are here to serve the people.<sup>8</sup>

### **1.10 Humanitarian Diplomacy Aims**

- Obtain access to the vulnerable population in the conflict zones and assess the level of protection needed.
- Negotiate permits and visas for humanitarian actors and the establishment of logistical and financial mechanisms to insure humanitarian aid.
- Ensure security for humanitarian workers and their premises, beneficiaries and civilians, as well the delivery of aid.
- Coordination and cooperation the action, sharing information among other humanitarian actors and organizations, as well the authorities and/or non-state actor.
- The promotion of IHL and its application, as well refugee law, migrants' rights, IDP protection and Human rights with the respect by state and non-state actors.<sup>9</sup>

It also consists of strategies in providing assistance and protection to the affected populations who are protected under the International Humanitarian Law, this could be achieved by negotiating with the state actors or armed groups who are controlling the territories, creating a network of relations with the persuasion of decision makers

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<sup>8</sup> (L.Roeder Diplomacy and Negotiation for Humanitarian NGO, Springer, p 1-2

<sup>9</sup> M. Veuthey, Humanitarian Diplomacy: Saving it When it is Most Needed: Humanitarian Space and the International Community: 16<sup>th</sup> Humanitarian Conference, Webster University Geneva, 2012, ( P 195-196)



and leaders by raising awareness, having support and insuring timely humanitarian action once needed.<sup>10</sup>

### **1.11 The Humanitarian Diplomacy Challenges**

The main dilemmas faced humanitarian and practitioners that mostly to be mentioned in many literatures is on the respect of the humanitarian law by the conflicted parties, working with military and armed groups without being identified with them, dealing with security threats, and gain acceptance across the context from all aspects, these dilemmas could be summed at the following points.

- Humanitarian Space, it means here the environment to be provided for the humanitarian actors to implement their duties and aid the vulnerable groups,
- Respecting the Humanitarian principles and Humanitarian laws by the conflicted sides.
- The establishment of the differences between the Humanitarian and non-Humanitarian actors and actions,
- Acceptance of responsibilities to humanitarian space, as humanitarian do have their assistance responsibilities working in conflict zones also the responsibilities falls over governments, local authorities, de facto authorities and armed groups to facilitate the access and security to the populations.
- The security challenge for the protected civilians and the humanitarian workers.

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<sup>10</sup> A.M. MARTINEZ, The contribution of humanitarian diplomacy by international relief organizations to obtain access to civilian victims of confinement in Samaniego, Colombia, Uppsala University, 2013. P 22.

- The acceptance of humanitarianism idea, with much involvement with the communities, and to increase the divers of geographical support bases.<sup>11</sup>

## 1.12 Humanitarian Negotiations

This term refers to the negotiations undertaken by humanitarian actors at an armed conflict with the belligerent parties for a humanitarian purpose to secure access, conducting assessments as well providing protection and assistance as implementing the set out of the International Humanitarian Laws (IHL)<sup>12</sup>

Since the very past years the UN, The Red Cross Movement and many other NGOs had been using the negotiation tool to insure access and assistance to the needed victims, as many international and internal conflicts are increasingly taking place in many places, meanwhile many lessons learnt from practitioners who noted that in this regard.<sup>13</sup> Meanwhile the failure of the humanitarian negotiations will be leading to a hardship, suffering and even more death over the effected population in addition humanitarians may find themselves in the fire line joining the hundreds of other humanitarians who are getting killed in the field each year.<sup>14</sup>

In the coming section, several articles, handbooks and writings has been used, highlighting common principles and challenges during the negotiations process, as well the evolution of the approach and the practice, an analysis and steps to strengthen the humanitarian negotiation.

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<sup>11</sup> K.M. CAHILL, M.D. Human Security for All, Fordham University press, ISSN 1541-7409, (p 120-141)

<sup>12</sup> I. Mosel & A. Jackson, Talking to the other side, Humanitarian negotiations in Southern Kordofan and Blue Nile, Humanitarian Policy Group, P-2, 2013.

<sup>13</sup> Harvard Program On Humanitarian Policy And Conflict Research 1-2

<sup>14</sup> A. Clement, The Frontlines of Diplomacy, Humanitarian Negotiations with Armed Groups, Australian National University, 2018. P 16

The shape of the conflicts has increased world wide as well between states, comes a huge demand for humanitarian assistance and negotiations, the appearance of small armed groups involved directly in these conflicts which is effecting civilian population in the context, media and communication has developed and also plays a role in transferring the information, also many humanitarian actors are involved in the action so the humanitarian negotiations became more challenging in achieving the target.

Many UN agencies and other NGOs were in need to set humanitarian negotiations with the conflicted parties in order to obtain access and deliver relief to the vulnerable effected population, the field of humanitarian assistance has increased in many contexts, even for the main basic needs, the determents of the size to provide the humanitarian assistance was directly linked with the skills that the negotiators possess in involving the conflicted parties in the understanding of the humanitarian nature issues, which also served in the protection scope of people.

It is important for the humanitarian actors to keep records and lessons for their negotiation maneuvering and a clear understanding of the outcomes of the steps and acts, which we can conclude as the following.<sup>15</sup>

So, we can summarize the main characteristics of the humanitarian negotiations by four main keys,

- a. It's the tool used by the humanitarian actors, such as the UN agencies, The International Committee of the Red Cross, and NGOs,
- b. For humanitarian objectives, the implementation of the humanitarian principles and standards under the International Humanitarian Law, including humanitarian access, protection and assistance.

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<sup>15</sup>Humanitarian Negotiation: Observations from Recent Experience,

- c. In both International and internal armed conflicts zones and countries.
- d. With actors of the conflict, both state and none state actors who are involved in an armed conflict, insuring the human treatment of detainees and civilians, and assistance to those who affected by the conflict.<sup>16</sup>

### ***1.12.1 Why to negotiate?***

A simple question to be asked, as the legal foundation and principles for humanitarian assistance should be implemented by the humanitarian actors, also the main negotiating process means in the sense to maneuver in achieving objectives and provide good deeds back, for governments, states and any conflicted actors should be respecting rights of the civilians by receiving protection and aid delivery specially during war times.

It has been clearly noticed in many contexts that the conflicted parties dose not respect the International human rights and humanitarian law, with the constant accusations of humanitarian actors as being biased and causing escalation of the conflict when they provide aid to those who are in need such as the wounded armed combatants, as it become challenging questionable for the negotiators on how should the performance of the process to be done through a legal and moral standards that has been ignored or rejected.

The political and social knowledge that should be possessed by the negotiator is the enforcing power to respect the principles during the process, when there are no commitment and clear applicable mechanisms in order to be implemented.

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<sup>16</sup>D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue, P19.

### ***1.12.2 What to negotiate?***

Most of the international humanitarian actions shares two basic components, protection and assistance, and this what negotiations goes for, in an approach that could be simplified as the protection of human rights as the right to life and providing food and shelter, the second delivering lifesaving aid and support assistance.

Still some voices argue against these two main components and to be accepted by the conflict actors, meanwhile the main focus stays on the protection of human rights by most of the humanitarian actors.

As it has been clear through humanitarian action analysis of promoting the respect of rights, as the right to assistance which is a human right, all these rights should not be ignored by the belligerents and focused by humanitarian negotiation process also a must distinctive matter for the negotiators in order to have an agreement on.

Having clear humanitarian negotiation objectives will be important for the organization, delivering medical and food supplies might be one difficult issue, so to start a negotiation process in this regard under a human rights dialogue might trigger a political issue, and the conflicted parties could not be accepting this humanitarian aid and ignoring the universal human rights laws.

### ***1.12.3 For whom do we negotiate?***

Due to the many humanitarian actors involving in each context, it is important for the humanitarian negotiations objectives to be coordinated and agreed between all these actors, but it was clear that the international donor positions has a direct impact of each humanitarian actors and NGOs approach, meanwhile actors in the conflict and in

specific non state armed groups will not seek differences between humanitarian negotiators who are interacting with.

In some contexts, a military escorting is required for the humanitarian access due to the high security risk situations, which was accepted for some agencies, meanwhile other organization's principles run against this manner, which results the collapsing of the humanitarian assistance implementation.

That is why it is important to have a consensus between humanitarian actors of their main objectives and whom to negotiate for.

#### ***1.12.4 Who to negotiate with***

Different individuals and groups from all levels of society, officials, authorities and community key figures, each side should be negotiated with to unlock specific door.

Keeping on linear good relations and negotiations will guarantee safe access and success at humanitarian objectives in the context.<sup>17</sup>

### **1.13 Levels of the Humanitarian Negotiation**

The way humanitarian negotiations is carried out and conducts by the staff can determine the output, the variety of each context requires the type of person to held the negotiations, like in some cases a local staff needs to take the negotiations as per the cultural and environmental understanding, in case of expatriate should be having the knowledge of the context from all aspects to understand the subtleties.<sup>18</sup>

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<sup>17</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p11

<sup>18</sup> O. BACONNET, Humanitarian Negotiation in International NGOS: what are the limitations of humanitarian negotiation for international NGOs? What can they do to become more effective? Humanitarian & Development Programme, IRIS. 2017. P 5-8

Humanitarian negotiation objectives is a collective strategy and responsibility of the organization, with each concerned internal department, staff should participate in setting the negotiation objectives relevant to the substance levels,

- a. High Level: a strategic planning stage to negotiation gaining access into an armed conflict country, setting the objectives for the size and the need of the operation, this level of negotiations takes place with the authorities, ministries and military highest political figures from both sides of the belligerents for a long period and to build good relations with, in order to obtain access and secured movements to the targeted population.
- b. Mid Level: an operational negotiation stage, about the strategic agreements and on the practical daily activities in the context, between all agreed parties, humanitarian actors negotiate with district authorities, military commanders or ministry officials to gain access to a targeted population or IDPs.
- c. Ground Level-frontline: a sudden situation that requires negotiations with junior state military or community leaders, staff members perform at check points or when the security of the humanitarian assistance is at risk, a denied to access of humanitarian needs to a specific location,<sup>19</sup>

## **1.14 Negotiation Theories**

There are three distinguished types of negotiation agreements according to theorists.

- a. Win-lose also called zero sum negotiation, an aggressive type of negotiations when one party takes over the interests to self benefit.

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<sup>19</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue, p21-27

- b. Compromise negotiation, a friendly approach that each party of the negotiations works together and settle an agreement satisfying both interests.<sup>20</sup>
- c. Principled Negotiation, a type that combines between the hard and soft strategies but still can't be consider that way, it needs to make a clear understanding of the main conflicted points, and then solved by both sides in an independent, fair and acceptable solution for each, without any immoral or deceiving methods.<sup>21</sup>

### **1.15 Basic Human Need Theory**

John Burton pioneered this theory in the 1960s, explaining that the absence and the repression of the following certain non-material social needs will be leading to conflicts.

- Identity
- Participation
- Recognition
- Security

The theory tackles that those basic needs rather than missing interests are the main roots of conflicts and within these needs resolution of conflict could be taking place, interest based negotiation could not be set at this context as it could not identify these basic needs which is also called a non material needs, this module shows a deeper assessment of the underlying risks, Herbert KELMAN on his role added more studies to this theory, and was implemented in 1970s with the Israeli Palestinian conflict were the

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<sup>20</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue, p21-27

<sup>21</sup> R. Fisher & W. Ury , Getting to Yes, RANDOM HOUSE BUSINESS BOOKS, 2



Identity and Security pillars to be addressed as the true core of the conflict, it is not a (Zero Sum) this theory can provide a mutual solutions.

Kelman work at the Israeli Palestinian conflict interpreted to be the Oslo Accords which ended in the breakdown of the process due to a complex political landscape<sup>22</sup>

### **1.16 The Objectives**

Humanitarian negotiations always holds a clear objective, which is to gain access in order to deliver assistance to those who in need, one example mentioned in this research in the 1980s when creating "zones of peace", humanitarian actors such as the UNICEF, WHO accomplished that in Lebanon and EL Salvador, they managed to create a cease fire between the conflicted parties in order to carry humanitarian tasks, such as the protection of children, these negotiations were a new approach but on real ground it was an accomplishment for the International Committee of the Red Cross (ICRC) and the current International Humanitarian Law (IHL) .

In many other contexts, humanitarian negotiations was applied to gain humanitarian truce to have access to the vulnerable populations, examples include the vaccinations in DRC, Afghanistan, Angola and Sudan and the protection of internally displaced people (IDPs), the first objective is to keep access in the conflict zones and insure humanitarian relief, Afghanistan is a very good example of the collective effort of the international community in respecting the human rights, and public service such as health care and education, another issue to address that negotiators managed to reach is the protection and security of its staff who are in the field and providing the

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<sup>22</sup>(ATHA) Understanding Humanitarian Negotiation: Five Analytical Approaches

humanitarian services, these humanitarian negotiations experience many issues been taken into considerations as strength positions for the humanitarian actors, others gave limited assistance.<sup>23</sup> Other humanitarian negotiations in more complex context took place with Hamas government through UN agencies was effective and directly to assist the population in the time needed at the terms of access for humanitarian staff during the peak of the conflict and the limitation of the movement restriction, the authorities (Hamas) was unwilling to cooperate with International organizations due to the fear of these agencies to be involved at any intelligence collaboration, but these negotiations was clear to aim humanitarian objectives and not addressing political issues, on the other side Hamas had a willingness to be seen as the legitimate state actor by showing a practical respect to the humanitarian principles.<sup>24</sup>

Humanitarian negotiations main objectives could be explained further within the following.

- a. Access: Humanitarian actors should be able to have a secured path with no obstacles to those who are affected by the conflict and detainees to deliver aid and assistance needed, and to insure an impartial assessment to the needs of the protected vulnerable groups.<sup>25</sup> There are the six parameters of humanitarian access to be used by practitioners , for what such as assessment and determining humanitarian needs, by whom to identify the people or the organization seeking access, to whom that is the people in need of humanitarian assistance, to what defining the items and services intended to meet the humanitarian needs, Where capturing the geographical

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<sup>23</sup> Humanitarian Negotiation: Observations from Recent Experience, HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH-2

<sup>24</sup> W. FENTON & A. Jackson & M. FOLEY, Humanitarian Exchange, Humanitarian Practice Network, ODI, No. 58. 2013. P 17-19

<sup>25</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue, p20

dimension, last parameter is When , that indicates the frequency and timing of access.<sup>26</sup>

- b. Assistance: shaped by programs targeting the vulnerable groups to provide aid and relief, such as health care, food items and nutrition monitoring, access to clean water and supply to meet up as it is clearly defined under the International Humanitarian and human rights Law that those protected groups should meet their human needs with dignity living conditions.
- c. Protection: Humanitarian actors actions that aims to ensure the protection of effected groups and civilians by communicating directly with the conflicted parties, monitoring, advise and alert when any violations occurs with reference to the implementation of the International humanitarian law, human right law and refugee law.<sup>27</sup> Humanitarian actors should ensure four main protection factors, that their actions does not bring additional harm to the effected population, the action to be benefited to the most vulnerable in need, contributing in protecting these groups from violence and abuses, and the last helping these groups to recover from the harm.<sup>28</sup>

### **1.17 Negotiating on the behalf of their beneficiaries, principles, programs, interests and themselves.**

A conflict analysis will be an essential contribution before starting any mediation or negotiation process, it will identify the key issues to be negotiated at, it will make an

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<sup>26</sup> Humanitarian Access in Situations of Armed Conflict, Practitioners Manual V2 , ,FDFA,2014 p 53

<sup>27</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue, p20

<sup>28</sup> R. G. SALGADO, The State of Art of Humanitarian Action, EUPRHA, European University on Professionalization on Humanitarian Action.

understanding for the parties involved, their interests, concerns and the potential agreement area.<sup>29</sup>

Meditation process main objective is to bring the two parties to a closer agreement and settlement in between without interference of the results, out of neutral point of view as long the two parties agree on, but at the humanitarian negotiations, the humanitarian actors are negotiating as being the interested parties but with very careful steps. It seems that Humanitarian actors negotiate on the behalf of their beneficiaries, but also for themselves, their interests, their principles, their programmers and for themselves. The humanitarian community is made of many UN agencies with NGOs and international organizations in which each have their different mandate as well donor states, they all influence the negotiation outcomes, and it creates difficulties on the final agreement and the objectives of the negotiation strategies. As a result, conflicted parties took advantage of this matter creating a slowdown for the negotiation process and the implementation, so a consensus agreement with a satiric framework is being worked for, and a one voice after planning with the humanitarian actors to agree on, it is true that such approach is weak due to the diversity of the humanitarian community and their political views and background.<sup>30</sup>

### **1.18 The role and the experience**

Usually there are two different groups who are involving at the humanitarian negotiations in access and assistance, the first are the professional and diplomatic

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<sup>29</sup> K. HUBER, Mediation Practice Series Conflict analysis: the foundation for effective action, HD,2014, P 18-20

<sup>30</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p2-3

experience negotiation group who act visible with the international and strategic objectives.

Due to the changes and challenges of the conflicts nature that is happening at the present, another type of negotiations appeared, to fulfill the needs of the humanitarian access and assistance, the second groups are there to negotiate on daily basis challenges within the geographic and program interest needs, usually they are heads of NGOs and humanitarian organizations staff.

Both groups are usually facing a little support by their agencies and the international community, with lack of experience in some cases and heavy unmatched objectives meanwhile they are facing pressure to go forward and score accomplishment on urgent matters within highly sensitive contexts, left to manage and priorities objectives with their personal knowledge and sense of experience.<sup>31</sup>

### **1.19 It's not the outcome to focus at but the process**

The main target of the humanitarian negotiations is to have access insure protection and aid delivery for the vulnerable population through time, and in order to obtain this process, trust and good relations should be build between the conflict actors.

It is very clear that humanitarian negotiations were never part of the political resolution at any conflict, meanwhile to keep the access to those who are in need and affected during the conflict which is creating a kind of half solution to the conflict resolution.

Political, peace and commercial negotiations are focusing on the out come and the results, a political final settlement, peace and resolution or a market share.

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<sup>31</sup>HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p 5-6

But humanitarian negotiations take a different route in order to keep on the implementation process, it is built on trust, understanding the cultural differences, direct communication, and predicting and changes in the context with the conflicted parties.

This process is the result behind the main historical humanitarian principles, which addresses the need to assist the ones who are in need regardless their location and background with no discrimination, meanwhile humanitarian actors are very aware that they do not have a direct impact in the conflict but to keep negotiating and provide assistance and access to the aid delivery with hope that the violence and conflict goes down.

It takes lots of harmonic hard work and follows up by the humanitarian actors to save lives and protection of the civilians during war time and conflict in the same time keeping their negotiations away from the political context but keeping the relations with the parties themselves.

It is important for the humanitarian actors to be very aware and monitoring the political surrounding environment and changes in specific at the prolonged conflicts, regarding the security and sudden shifting between the conflicted parties.

An essential lesson many humanitarian actors keep in consideration that their actions can not be an alternative for a political solution but they should be going in parallel and harmony together, resulting to a better political resolution outcome specially when humanitarian concerns and agreements fulfill the process, for humanitarian negotiators being adaptable in their process without risking or intervening at the political outcome and to ensure the continuity of the humanitarian assistance.<sup>32</sup>

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<sup>32</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p 5-6

## **Chapter 2**

### **Challenges**

## 2.1 Limitations and Challenges of the Humanitarian Negotiations

There has been many philosophical and ethical issues and challenges raised by humanitarian negotiations through experience which needs more attention and work awareness in many cases having a direct impact on the humanitarian actions, many literatures could be found and practical experiences, but there is no concrete methodology to backup and fulfill all the needs which participated in preventing conflicts through the humanitarian negotiations structure.<sup>33</sup>

One of the shapes the practical limitation for the humanitarian negotiations would be also the implementation of IHL itself at an armed conflict, humanitarian action itself could be not welcomed by one or both parties of the conflict, state actor seeks to limit the contact for the armed groups, who seek legitimacy and recognition visions while implementing IHL through international organizations, IHL in some context to be seen differently among armed groups, and will not be the most effective tool at a persuasion argument, the awareness and willingness plays the role of reaching an agreement beside the level of IHRL obligation which could result with a special agreement.<sup>34</sup>

Cultural, religious and diversity difference in addition to the local laws should also to be all in considerations, effects over the conflict and activity dynamics, will result understanding the type of approaching and negotiating to be conducted.<sup>35</sup>

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<sup>33</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue

<sup>34</sup> (9-the Spanish civil war to Afghanistan, HPG,2014, P(7 A. Jacjson & E. Davey, From

<sup>35</sup> Negotiating Humanitarian Access: Guidance for Humanitarian Negotiators, Conflict Dynamics International, 2017 P (5-6).



## 2.2 Lives at Stake and Humanitarian Action

The humanitarian action is that activities aiming to save the lives, reduce the suffering and maintain human dignity during and post man made conflicts or natural disasters also to prevent and strengthen the preparedness of such cases.<sup>36</sup>

Rapid response and taking a quick humanitarian action is one of the duties, several cases worldwide led to a dramatic change due to the shape of the conflict dynamic, a clear constant human rights violation monitored by the humanitarian actors can be no longer accepted, negotiations here must take place immediately in order to allow the access and intervention to protect and save lives.

In these urgent cases humanitarian actors are set in a position where they have to undergo limited planning and preparations for negotiations, which could lead to missing details and strategies.<sup>37</sup>

If we compare humanitarian negotiations with others, such as the commercial that takes several planning and studying the target market or the political which is concerning the geographical areas or a clear historical and economical background, were these groups are working with skillful and planning mechanisms of negotiations techniques.

Unluckily the humanitarian negotiations possess short time to go through the basic details and information due to the urgent of the intervention, about the political situation, who are they dealing with, and the position of the conflicted sides, as a result it is important to address the planning and preparation in crucial for a better result.

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<sup>36</sup> S. Zyck, Regional organizations and humanitarian action, HPG, 2013, p (6)

<sup>37</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue p 29

## **2.3 Aggressive and Fearful Environment Causing Low Trust and High Risk**

The destructive environment of war between parties creates a low trust issues between them, and that's the working atmosphere for the humanitarian negotiators, risking lives for all parties is becoming part of the job, for the negotiators they should then take a defensive position which usually leads to no agreement.<sup>38</sup>

It was report by humanitarian actors in (Somalia) and addressed the difficulties facing them in creating communication lines to start negotiations with the armed groups, as their leaders refused to communicate directly with internationals but only to individuals who are from local origins, this created a pressure position in the hands of the armed groups (Al Shabab), meanwhile other agencies managed to communicate to seniors through intermediaries who are outside of the country, in other rare occasions some staff from other agencies managed to communicate very limited by phone, this attitude was a challenge to grant international organizations to open humanitarian dialogs with these armed groups and to insure awareness of violations as well to facilitate the humanitarian access and aid to those who in need.<sup>39</sup>

## **2.4 Humanitarian Negotiation and Dialogue Needs Time**

In some urgent humanitarian crisis, a quick action should happen when lives at risk and immediate protection is needed, setting the negotiation under pressure leading to a failure of accomplishing the objectives, donors could also be an additional pressure tool when they request a short timeframe for a result.

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<sup>38</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue p 29

<sup>39</sup> A. Jackson & A. Aynte, Talking to the other side, Humanitarian negotiations with Al-Shabaab in Somalia, HPG, ODI, 2013, p (16-20)

Negotiation and dialogue are meant for a better understanding, building good relationships and trust which could lead to a future agreement, in order to create this planning and time should be invested.

Time is also a negotiation key tool in a shape of withdrawal when reaching to a dead end, when suspension of the negotiation happens, it gives time for both sides to reevaluate objectives and strategies as well to consult; withdrawal from negotiations when the progress seems impossible will allow the negotiators to regain a stronger position and to avoid any disastrous results.<sup>40</sup>

## **2.5 Morality**

Humanitarian negotiators and actors receive their strength in their mission and the belief of their objectives through the International humanitarian and human right Laws, but this belief can be also the weakness for humanitarian actors as it could be clear that one party is legally and morally correct which leads to a limited area and space to maneuver through options, ending up with a solid and hard negotiation process between parties discussing positions rather than solutions and options.

Moral strong beliefs led in many cases to a dead end for the negotiation process for the humanitarian actors, Taliban in Afghanistan is an example on how they did not possess strong commitment to the universal human rights, but winning the war was their priority, therefore the priorities for the conflicted parties headed up over human rights laws which made negotiations such a struggle in order to accomplish many humanitarian objectives, many programs had to stop just to keep the basic survival needs to the vulnerable populations.

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<sup>40</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p 7-11

In other contexts, human rights principles may be accepted by one party but ignoring the application or refusing the fact of violations, in these cases it may be in the use for humanitarian negotiations to apply once the moral high ground is positioned.

The negotiation process is a maneuvering practice, where giving is a must in order to receive, and to position both sides in a win/win situation, it is defiantly a very difficult task to convince one party that their win is also the other side win.

Conditionality strategy is one approach, also known as the (carrot and stick), that could be used in some difficult cases, such approach could be augmented due to its ethical view, an example could be in banning assistance to some population who are in need for aid in order to receive an agreement from the government, this strategy requires a special determinations and implementation since it is very difficult to be done by the humanitarian actors who are sharing the international assistance, an agreement must be done by all the humanitarian actors against those who do not abide and tolerate humanitarian assistance access and rights violations.<sup>41</sup>

## **2.6 The Separation Between Human Rights Advocacy and Humanitarian Negotiations**

Human rights advocacy and education awareness approach is becoming more acceptable worldwide, as also many humanitarian actors are implementing this approach through their programs which creates some obstacles in an indirect method for the humanitarian negotiations.

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<sup>41</sup>HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p 7-11

The absence of setting clear objectives at the humanitarian negotiations has caused a mislead between humanitarian action and human rights advocacy, where the latter promotes to raise awareness of the behavior toward other groups, it functions in a public way such as campaigns and constant meetings, workshops and discussions.

The output and accomplishment of advocacy could be measured and seen when an idea of human rights promotion becomes a public opinion which concludes that this is a powerful and effective tool.

Being aware of the differences between international human rights advocacy and humanitarian negotiation is crucial for the humanitarian negotiators; advocacy concentrates on a wider image of human rights principles such as girls' right of education and women participation, stopping torture, but for negotiations its targeting more specific issues, such as accessing and delivering health care to a specific location, detainees conditions and the protection of IDPs.

As separating between advocacy and negotiations is necessary, a negotiator awareness of the differences between them will be a resource of strength, in some cases humanitarian actors suddenly find themselves trapped into negotiating for human rights, theoretically this was not a humanitarian negotiation but still advocacy should keep processing and progressing at the same time,

In cases like these humanitarian negotiations became so wide, and deviated from its main objectives, such a case as decades of discrimination could not be solved in a short period of negotiations time, but to keep on reminding and human right advocacy is also important to be recognized.

It is clearly defined in the Geneva conventions and its Additional Protocol what the humanitarian principles are, so humanitarian actors and organizations will never be

negotiating for implementing these principles, the substance of humanitarian negotiations are centralized at the implementations of these principles clearly for each situation.

The objective of the negotiation is the process focusing on achieving the implementations of these standards and principles, thus allowing advocacy to be used as a start up door for negotiation, or a tool to open further negotiation areas, but still humanitarian negotiation success is by keeping the focus on its main objectives rather than efforts at the wide human rights advocacy.<sup>42</sup>

**Table (1) – The application of IHL and IHRL**<sup>43</sup>

Scope of application of IHL	Scope of application of IHRL
Purpose of IHL: Limit the effect of armed conflicts by protecting persons not or no longer participating in hostilities, and restricting the means and methods of warfare	Purpose of IHRL: Lay out obligations of States to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals
Applicable in armed conflicts only	Applicable at all times
Applicable to both States and non-State actors	Applicable primarily to States

## 2.7 Neutrality

The position of the International Committee of the Red Cross (ICRC) from setting its own strict principles of impartiality and neutrality was criticized by being naïve, but it's the reason that gave ICRC the ability to having access, delivering aid and assistance to locations and contexts where other humanitarian actors could not do so, and a monitoring mechanism to quit any humanitarian access that does not match their principles.

<sup>42</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p 7-11

<sup>43</sup> Humanitarian Access in Situations of Armed Conflict, Practitioners Manual V2 , Federal Department of Foreign Affairs FDFA, Swiss Agency for Development and Cooperation SDC ,2014 p 34.

Neutrality became a core issue and difficulty for most of the humanitarian actors to start up humanitarian negotiations, since state and non-state actors in a conflict possess a political side and will not adopt the neutrality concept.<sup>44</sup>

This term was tackled at several events and was questioned by creating a challenge for humanitarians due to the funding of the political bodies, creating a pressure and impeding the donor ship process by forcing to support unsavory regimes deviating from a strategic context or a more urgent lifesaving assistance.<sup>45</sup>

## 2.8 Conditionality

The nature of an armed conflict is changing through the past years, state and non-state actors are shaping and involving at these conflicts, meanwhile it is causing difficulties and constrains for the humanitarian negotiations processes, were separating a political from humanitarian matters is a huge challenge, by enforcing a political change to obtain a conditional humanitarian assistance.

Actors into an armed conflict, provides humanitarian assistance from their side, but it is visible that they limit their services to specific groups, considering that other groups as enemies, monitoring and accountability became absent and the actors of the conflict in such cases does not show respect for the international humanitarian law, leaving the international community and the humanitarian actors to influence and use conditionality (Withdrawing the aid if not responding) as the last tool to push belligerents to abide and respect the laws.

Conditionality in these cases is a weak position, it will question the morality of the humanitarian assistance and humanitarian actors should not be withdrawing in such a

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<sup>44</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p9-10

<sup>45</sup> M. DuBois, The new humanitarian basics, HPG,2018, P (20-21)

way as their principles and mandates does not allow that, as well actors of the conflict will be going steps away from respecting and recognizing the international humanitarian law which they already not responding to.

It could also effecting the output of a political position or to create an economical leverage, and a submissive attitude toward human rights and international humanitarian laws, the reaction of the population against the regime could be taking place, using conditionality as a tool of pressure against the negotiating party, still not much supporting experiences and literature proved that but from the moral principle perspective those who suffer the most and in need are the effected criteria from a conditional humanitarian assistance.<sup>46</sup>

## **2.9 Rejection, Resistance and Resentment**

It is very obvious in some cases humanitarian actors are not welcome by belligerents' parties especially when they are trying to win the fight at any cost, as it is believed that humanitarian access and assistance might disturb and interfere with their war objectives, a clear absence of interdependence during the humanitarian negotiations is another challenge for humanitarians and what is worst to come the constant assaults against humanitarian workers at many conflict zones.

As humanitarian actors lack the power over territory to access and assist the vulnerable groups, and in many cases, belligerents refuse to start negotiating, so to avoid this rejection humanitarians start to persuade them to start the negotiation, as a good negotiator is also a good persuader.<sup>47</sup>

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<sup>46</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p9-10

<sup>47</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue p24-27



Also balancing between the staff security and the humanitarian needs is important at any context, since the primary security management is to keep on operating, meanwhile the three main security strategies in humanitarian operations are to be acceptance, protection and deterrence strategies, the following diagram illustrates security measurements and assessments humanitarian agencies faces.<sup>48</sup>

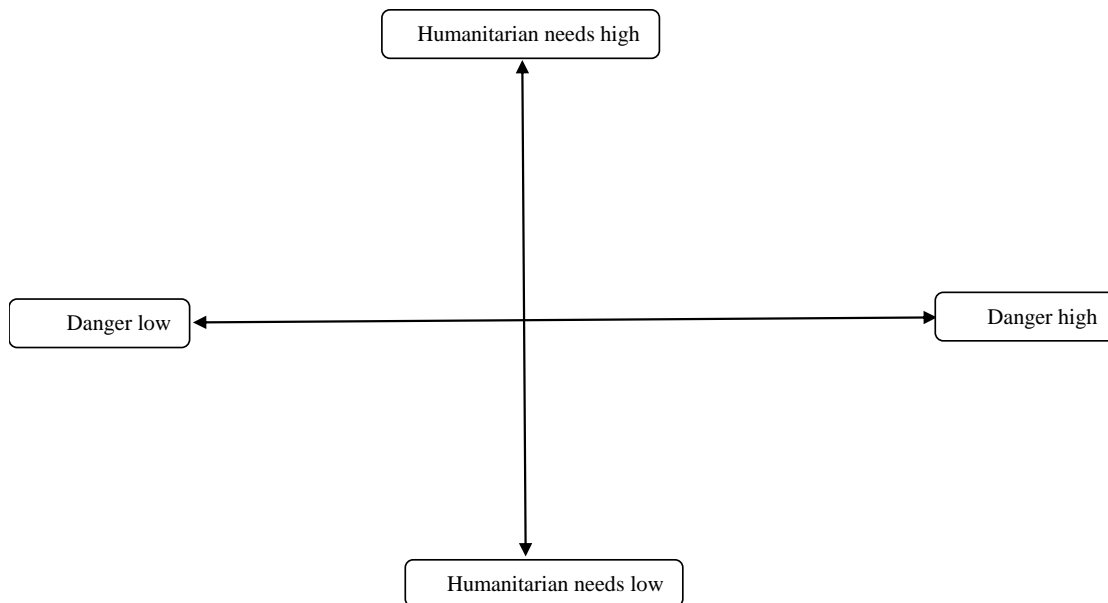


Figure (1): security measurements and assessments humanitarian agencies faces

## 2.10 The Growing Need for the Humanitarian Assistance and Negotiations

It is possible that all shapes of armed conflicts will keep increasing and continue in the future; meanwhile non-state armed groups involving in conflicts keep on ignoring human rights and international humanitarian law, which is an indicator to the growing need for humanitarian negotiations.

<sup>48</sup> E .Ablid, Creating humanitarian space, Refugee Studies Center, University of Oxford, UNHCR.2009.,

Therefore, it is required from humanitarian actors to be professional, methodical and organized in their approach to humanitarian negotiations and respond, learning from the past, track what could lead to success and avoid failure.

Humanitarian negotiation is an important matter to be taken into considerations for all humanitarian actors, in which each case objectives should be homogenizes with the process, training is essential for those who are involved at the negotiations, in order to maintain situations and to be able to analyze any challenge that might suddenly appear to obtain access and provide assistance.<sup>49</sup>

## **2.11 Humanitarian space & the Negotiated Access**

This term was defined into many different definitions in accordance to different humanitarian actors, as an agency space which refers to the ability to operate freely and meet the need with the humanitarian action principles, or as an effected community space as to uphold the rights to relief and protection, the third definition which is related directly to the space of IHL and the warring parties in respecting the law and allowing humanitarian organizations to provide relief and assistance to civilians, last definition as a complex political , legal and military actors.

With this combination term used by several actors at many conflict zones worldwide, negotiated access programs were able to be implemented as a time limit operations to ceasefire or creating a safe corridors for humanitarian to deliver relief and aid, conditions to be carefully negotiated between belligerents benefiting humanitarian actors to have a secured access and also findings mechanisms, this space practically was the reason to open additional initiatives and negotiations with different actors and

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<sup>49</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p4-6 &11-14

organizations at different contexts and providing a short term relief and aid for the long running wars or political crises conflicts, many criticisms and accusations mentioned that the aid used does not address the root of the conflict as well failing to protect the population from violence, instead would be fueling the conflict.<sup>50</sup>

## **2.12 The Knowledge of the Humanitarian Negotiator**

A humanitarian negotiator in the field should firstly have a knowledge of both Human rights law and International Humanitarian Law, in order to know the differences in between and to strengthen his/her position of negotiation, keeping in mind that both laws have a legally binding nature over actors involved in a conflict posing on them an international pressure.

This issue has been brought into attention for many organizations leading into development specific training materials for its staff and potential negotiators at the humanitarian principles, human rights and international humanitarian laws knowledge, as well negotiation skills.<sup>51</sup>

## **2.13 Unbalanced Power and Knowledge**

During the negotiations with the authorities, humanitarian actors are the weaker party since they are not possessing influence over the territory and population meant to assist and protect but seems to be different when discussing assistance with civilians by being the powerful actor.

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<sup>50</sup> S. Collinson & S. Elhawary, Humanitarian space: a review of trends and issues, ODI, HPG report 32, 2012. P(1-7)

<sup>51</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p4-6 & 11-14

Humanitarian actor's negotiation advantage being able to access information networks, helping them to understand who they are negotiating with their role, and to some level their personal background. On the other hand, counterparts in some occasions know a little about the organization and probably nothing about the representative, who is sitting with on the discussion table.

It is necessary to keep the good relations with counterparts and avoid any difficulties that might come at the negotiation process, one of these issues is the language spoken with each, when English is spoken during the negotiations this could create an unbalanced relation.<sup>52</sup>

## **2.14 Power Asymmetry**

A study by BRILL NIJHOFF university addressed the fact of Humanitarian Negotiations facing the power asymmetry in many contemporary conflicts, and how the weak position of humanitarian actors at their negotiations who are seeking to perform assistance and protection to civilians leads to leaving many vulnerable groups beyond the reach, the study was concluded in several points, as assistance used to be provided at some context on the basis of accessibility rather than the needs, while the separation of the power resources of an actor so it will not influence the negotiations by the distinguish of the structural power, which are the sources, capabilities and position of each party,

Comes the second stage by analyzing the sources of the structural power within humanitarians, negotiation theories application would grant humanitarians the power balance position to their favor with the implementation of the humanitarian levers in

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<sup>52</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue P30-31

time which are the International Laws persuasion and cooperation with other humanitarian actors, as they possess the ability to effect the perception and legitimacy of an actor, while keeping on demonstrating the humanitarian principles.<sup>53</sup>

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<sup>53</sup>A.J Celment, *Overcoming Power Asymmetry in Humanitarian Negotiations with Armed Groups*, BRILL NIJHOFF, 2018.

## **Chapter 3**

### **The Practice**

### 3.1 Strategic planning

Humanitarian negotiation practice could be improved by training and knowledge, strategic planning is a great methodology before starting the negotiations, by setting in advance a clear objective and a plan, it is also important to involve other humanitarian actors and donors at the same context, with this involvement the negotiation process will benefit and strengthen up once reaching an agreement is taking place.

Such planning with clear negotiations objectives, a humanitarian situation analysis and assessment of the factors influencing the image, will also gives the level of humanitarian assistance needed.

A conflict mapping should be done as part of the preparations, actors of the conflict, third party involvement, and the possessed interests of each actor to understand, that could be later part of the reached agreement during the humanitarian negotiations.

Also an analysis of the objectives success outcome probability should be taken into considerations, and what might causes a potential threat into the progress of the negotiations, what strengths and influential points does the negotiator have that could use to trigger an agreement, and what to avoid bringing up during the progress, being well prepared for such a scenario could be done by a clear understanding of the background and an analysis with a clear strategy for the humanitarian negotiations process.<sup>54</sup>

Many of the contemporary conflicts is to be engaged with armed groups, while neglecting the essential role that the armed groups as part of the armed conflict, as well seen to be the predatory side, many lessons learnt by practitioners to be summarized in

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<sup>54</sup>HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p 12-13

the following points as part of the strategic planning when interacting with the armed groups, as it is essential to ensure the survival of the population under their control.

- Analysis and understanding of the armed groups.
- A clear strategy creates an effective engagement, an ad hoc approach with all levels of the organization.
- Multiple levels engagement and relations results with a successful negotiation.
- Maintaining the humanitarian principles resulting in acceptance leading to successful humanitarian actions.
- The balance between Transparency and confidentiality is to be determined by the degree of the environment's secrecy and fear, which might lead counterproductive results and the level of sharing with others
- Coordination and collective efforts between agencies and advocacy to overcome broader challenges, information gathering and sharing, creating agreements on the red lines and ground rules.<sup>55</sup>

### **3.2 The Main Four Humanitarian Negotiation Pillars During Implementation:**

**-Substance:** By keeping on the targeted discussion field, focusing on the main objectives, as might the negotiator crosses with their counterpart's needs and similarities.

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<sup>55</sup> A. Jackson, Humanitarian negotiations with armed non-state actors: key lessons from Afghanistan, Sudan and Somalia, HPG, Policy Brief 55, 2014.



**-Relationship:** to keep on good communication channels with all actors of the context, but with boundaries, away from being so close and personal to a trusted relation with mutual respect of agreements, and a walk through to negotiation entrances in case of need.

**-Process:** Choosing the right location and time, rules and strategies to be in consideration.

These three pillars will bring up the outcome of the humanitarian negotiations, the real **Results** is seeing the agreements in which already agreed on with counterparts, getting implemented and turned into actions, the level of respecting the agreement is seen on real ground, keeping in mind that the main objective in reaching and accessing to the vulnerable groups, the way a negotiator speaks, act and thinks will be measured on the ground.<sup>56</sup>

### 3.3 Partnership and Cooperation

A very important aspect agreed between all humanitarians during negotiations, it could be challenging due to a high politicized environment to share among other organizations, as well the confidentiality required by the organization, as it was explained to be a dilemma once also absence of effective coordination, as parties could be playing a role causing different organizations against one another.<sup>57</sup>

Also, to be familiar and knowing about other humanitarian negotiations by other agencies or organizations in process at the same context is essential, as each partner

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<sup>56</sup> D.MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue P32-33

<sup>57</sup> R. GRACE, Humanitarian Negotiation: Key Challenges and Lessons Learned in an Emerging Field, ATHA, 2012, P7

would bring an added value to the table of negotiations as well clarifications of the needs and interests of the counterparts.

So before engaging into multi-agency negotiations such as an armed group, some points should be considered.

- Humanitarian actors speak the same language with one voice, so usually one or more representatives should be identifying to interact and lead the negotiations with the counterparts, a deputy or a secondary group or individuals should also be selected to keep the negotiation process continuing and to follow up.
- Humanitarian objectives and negotiations should be clear and separate from the political one.
- All humanitarian actors operating in the same context should agree on the process and the humanitarian objectives, as well to abide the outcome of the negotiations.<sup>58</sup>
- The complete not to compete humanitarian negotiations efforts by other organizations and agencies, so exchanging information between actors, process and lesson learnt from them, as well the agreements reached between counterparts during the process will add a constructive negotiations in the future and will be an essential procedure during the strategic planning before the act, will assist in reaching a complementary agreements and results, cooperation between humanitarian organizations will make it easier for each to target their humanitarian field and specially in harmony and success.<sup>59</sup>

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<sup>58</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006 p 21

<sup>59</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue p 36

### 4.3 The Counterparts

To achieve successful negotiations agreements and results, the negotiator should be addressing the right target to interact with, by ensuring that counterparts negotiating with are respecting the humanitarian values with implementation power capabilities.

It is important to assess each counterpart or even potential counterparts and see where it could meet with own objectives and add a value, negotiating with all counterpart's levels is essential when dealing with governmental or an armed group actor, shaping the good relation will also results with a better output when focusing on three factors,

- a) Culture, humanitarian negotiation indeed with everyone regardless their religion, background and identity. But understanding the cultural aspect will assist in understanding the methods and steps in dealing with the counterpart as well to avoid and misunderstandings and mistakes.
- b) Approach and negotiation style, as well avoiding an aggressive method and the readiness of adapting any changes.
- c) Psychological and personality types, this will help to predict the next move as the easier dealing with counterparts will be.

### 5.3 Types of Counterparts to Avoid

Keeping good relations with all levels of counterparts is essential, but for a negotiator it is important to start negotiating with powerful and effective counterparts, falling into **Powerless Counterpart** will not lead to any objectives accomplishments, but such a counterpart could assist in addressing the right person who is more powerful and an influencer, being smart to avoid a powerless counterpart without insulting them as this one might turn powerful in the future and will be knocking their door one day again.

The **fake** or so called **Phony Counterparts**, is the last counterpart humanitarian negotiator to interact with, they are customized to waste time, no results meeting main objectives, and energy consumers, might be tricky and attracting at the beginning being enough diplomatic to withdraw, usually such a counterpart will be discovered during assessments.

By identifying your counterparts before going into any humanitarian negotiations, will be a help to take decisions and right steps, gathering and analyzing information then mapping them will provide a clear understanding to what will be interacting with, another tool could be a simple and quick pre negotiations meeting, if it was possible to and does not have any negative effect, could also be a close look and a better understanding.<sup>60</sup>

### **6.3 The Agreement**

After the hard work, consistent negotiations, comes the fruit of the agreement, regardless in which track the procedure took along, the negotiation method and the challenges that occurred during the dialogue, indeed the better the outcome will be in favor of those who are in need for the humanitarian assistance, as well negotiations and agreements should offer some advantage to the counterparts, there are five main characteristics that a good agreement have.

A- Serves and helps the effected population,

B- It can be implemented.

C- It is clear with the details obligations of each party.

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<sup>60</sup> D. MANCINI-GRIFFOLI AND A. PICO, HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue p 56-59

D- A good agreement is a sustainable commitment and could be implemented in a specific period.

E- It should keep the good relations for future negotiations and agreements.<sup>61</sup>

### **7.3 Principled Agreement**

One of the best agreements a negotiator could achieve, as both parties could be agreeing without any concessions, but what became in reaching such agreement a challenge for the humanitarian negotiator is that the incompatibility between the humanitarian principles and norms to implement with the other military, political and non-state armed actor's objectives.

At other typical negotiation styles, a compromise could be reach between both parties if no agreement managed to be achieved, but at the humanitarian negotiations compromising is not on the list, a middle ground for the negotiator means tolerating with illegal or immoral concession, also reaching half way agreement with counterparts will leave humanitarians with a dissatisfying result and probably leading to a disastrous humanitarian results.

In some occasions a negotiator faces a win – lose situation, where using a harder method over the other side, but for humanitarians they do not possess the power to enforce an agreement, additionally it was noticed that any agreement made by force will not last long on the ground, using aggressive and hard negotiation strategies will leave a negative impact and will close any future negotiation doors, and that will make the humanitarian actor the looser at a win-lose situation.

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<sup>61</sup>D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue

So, humanitarians became in an unsatisfying position between the willingness to reach an ethical and mutual agreements and the being in a win lose situation and playing hard will cause different outcomes,

These are mostly the main reasons humanitarian negotiations fails, and if they do succeed it will not last accurately the way it should be, failing at the negotiations means more casualties and death, the absence of protection and delay in aid for those who are in need, so a second best agreement is the negotiator target, third and fourth will still be a good of the outcome, as it will save and protect lives for those who did not affected yet, through this method will keep the bonne foi and relations with the counterparts for future negotiations.<sup>62</sup>

### **8.3 The Impacts of Humanitarian Negotiation**

- Trust building will be established between the negotiator and counterparts, leading into a humanitarian achievements and objectives.
- Humanitarian negotiations should not be replaced by any political one, as it may affect the belligerent's orientation when view points exchanged and needs to be fulfilled.
- A safe and secured access to deliver humanitarian assistance to those who are in need.
- Implementation of basic agreements.
- Monitoring the provision of agreements in the area controlled by armed groups, to those who are receiving the humanitarian assistance.

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<sup>62</sup> D. MANCINI-GRIFFOLI AND A. PICO HUMANITARIAN NEGOTIATION Centre for Humanitarian Dialogue p24-27

- Achieving protection of civilians, in correspondence with the International Humanitarian Law and Human Rights Law, once agreed between belligerents and their behavior toward the conflict under the supervision of the Humanitarian Actors.
- The Humanitarian security, each humanitarian participant and staff as well as beneficiaries receiving the assistance, the safety and security of the psychological and physical aspect.
- Releasing any civilians or humanitarian workers been held against their will at the context by one side of the belligerents.
- Seas fire agreements and or protection over a specific location<sup>63</sup>
- Other impacts of the Humanitarian Negotiations are also the Ground Rules agreement.

In 2004 a workshop was held by Conciliation Resources, as part of a case study question: "Impact of the Process of Humanitarian Negotiations on Armed Groups, Engagement in Political Dialogue", as well in engaging into peace talks and negotiations, came out with many arguments, but the most to be address after all of the points is that, it is never possible to replace the humanitarian negotiations into a political one, regardless to any circumstances.

- Humanitarian Negotiations will give an opportunity for the armed groups to show their desire into participating at other negotiations themes and building trust between humanitarian actors which could lead to better achievements of humanitarian assistance and objectives.

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<sup>63</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006, P 11-12

- The successful humanitarian negotiation results might have an impact over the armed groups by staying away or engage less from the conflict.
- Armed groups participating at the humanitarian negotiations could lead to further political negotiations and peace talks.
- For both armed groups and intermediaries will be aware of the positive engaging and participating at humanitarian negotiations and actions.<sup>64</sup>

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<sup>64</sup>G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006, P13



## **Chapter 4**

### **The International Law**

## **4.1 The Elements of the International Law and Humanitarian Negotiations relativity.**

A great start to the humanitarian negotiations framework comes with two main categories are to be in considerations, first the fundamental humanitarian principles , which will tell on how to start the Humanitarian negotiations then to clarify humanitarian actors limitations and field of operation with a clear assessments of the context identifying the development needed sectors , on the other hand comes the International Law Elements, which includes the International Humanitarian Law (IHL), The international Human Rights Law ( IHRL), The International Criminal Law such as the Rome statute of The International Criminal Court .

## **4.2 International Humanitarian Law (IHL)**

A set of rules, expressed under customary law by a legal instrument, to limit the means and methods of an armed conflict in separating the harm from who are no longer participating at the conflict, and who are also affected by the armed conflict, these set of rules defines the protection of both mentioned groups.

The (IHL) binds all parties of the conflict and applies when an international (Two States) or non-international (State and armed groups) armed conflict occurs, but not applicable at an internal disturbance and disputes, the (IHL) contains rules to be applied on both state actors and non-state actors.

The International Humanitarian Law is build on two main laws, the treaty-based law and the customary international humanitarian law.<sup>65</sup>

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<sup>65</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006 ,P30

### **4.3 Challenges of compliance with the IHL at an armed conflict**

- The conflict and parties' diversity, that could be a state or a non-state actor, their motives, goals and interest, the willingness of recognition, the acceptance of the neutral third parties' involvement,
- Denial of complying the IHL, and this will cause a difficulty in starting a discussing with the parties of an armed conflict, state actors might be explaining that it is an internal tension which does not apply to be a non-international conflict, or a non-state armed groups will refuse to comply a body of law created by state.
- Political will to implement IHL, which could be divided in the context the willingness to comply with, the lack of accepting according to the interest of each parties of the armed conflict, but through dialogue and negotiations this stage could be changed.
- Lack of security leading to prevent access, leading to huge obstacles to start dialogue and the implementation of IHL.
- Ignorance of Law, for the involvement of the parties at the armed conflict without any training or little of it, comes the awareness role and the introduction of IHL. <sup>66</sup>

### **5.3 The Foundation-IHL**

International Humanitarian and Human Rights Law as well the International conventions and declarations the Geneva Conventions and the additional Protocols are the main source of the strong foundation that the humanitarian negotiations possess,

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<sup>66</sup> M. Mack & J. PEJIC, Increasing Respecting for International Humanitarian Law in Non-International Armed Conflict, ICRC,2008, (p 11-12)

The universal acceptance of these principles provides the humanitarian negotiations its legitimacy and strength which reputedly supported by the Security Council and General Assembly Resolution.

Article 3 in the Geneva Conventions commands states when engaging in an international conflict, and non-state actors as to holding responsibility in respecting the humanitarian standards at the included provision.

Additional Protocol I and II urges the protection of civilians and to keep the access for assistance, as it is applicable to non-state actors during the internal conflicts.

It is also clearly requests to provide assistance to the non-combatants from both conflicted sides at the Geneva Conventions and Additional Protocols, since this has been the solid rule for the humanitarian negotiations with state actors leading to an achievement to be applicable over non-state actors in some contexts.

The Universal Declaration of Human Rights that took place in the twentieth century and was the reason behind the respect of the principle for the universal human rights. The implementation of the International Covenant on Civil and Political Rights with the International Covenant on Cultural, Economic and Social Rights created the infrastructure for the International Human Rights Law, these two covenants endorsement created the Human Rights Law and its legitimacy mechanism.

Humanitarian access and assistance became more valuable and applicable once the principles of universality, indivisibility and non-discrimination in human rights were applied, clearly in the Covenants; it is the responsibility of the state to ensure all rights to all people, also to monitor the violence and violations taking place in its territories by any actor, as well if it appeared that the state is taking part of this violence by these

private sectors, it is then the responsibility of the state, these responsibilities of the state played a big role at the Humanitarian negotiations.<sup>67</sup>

after the assemble of the Swiss Federal Council on the 21<sup>st</sup> of August 1949 as 59 countries representatives participated meanwhile 4 countries were observers, as a result the four Geneva Conventions was established as the following:

- I- Geneva Convention for the improvement of the condition of the wounded and sick of the armed participants at war time, 12 August 1949.
- II- Geneva Convention for the improvement of the conditions of the wounded and sick of Sea forces, 12 August 1949.
- III- Geneva Convention for the treatment of the PoW. 12 August 1949.
- IV- Geneva Conventions for the Protection of Civilians at war time, 12 August 1949.<sup>68</sup>

### **1.5.3 Treaty Based IHL**

Based on Agreements between states, and a legal instrument in which was shaped by the

- (1907) The Hague Conventions
- (1949) the four Geneva Conventions.
- (1977) the two Protocols Additional to the Geneva Conventions.
- The provision of treaty based IHL also applies on non-state armed groups within the Common Article 3 at the (1949) Geneva Convention, as well as the Additional Protocol II.

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<sup>67</sup> HARVARD PROGRAM ON HUMANITARIAN POLICY AND CONFLICT RESEARCH p2-3

<sup>68</sup> ICRC, The Geneva Convention of August 12, 1949, P 4.

The Geneva Convention Common Article 3 is addressing several provisions directed to all parties of the non international conflict, as it also involves provision for a the specific agreements between parties at the non international armed conflict in order to implement the four Geneva Convention, this special bilateral agreement between a state and an armed group includes the provision of humanitarian relief for those who are no longer engaging into the armed conflict.

The Additional Protocol II of (1977) of the Geneva Convention serves as a development and a continuation for the provision of Common Article 3 and is applicable to the armed conflict for the location of the territory by the state signatory to the protocol over all its armed forces, it also contains provisions for the humane treatment for all those who no longer participating at the armed conflict, as well emphasizes the necessity to provide the needed care of the sick and wounded as well the protection of the civilians.<sup>69</sup>

### **2.5.3 Customary IHL**

Rules and norms established by practice, implemented during armed conflict, even if a state is not a signatory to some agreements, should not target civilians and infrastructure of survival resources, such as water, cultural and religious practice.

The most appeared customary international humanitarian law which is included introduction of Additional Protocol II of the Geneva Conventions 1949 and was explained by (Marten Clause) even with the absent of a law over the armed forces, the principles of humanity protects the human been as it came from public conscience.

The International Committee of The Red Cross, published a study in March 2005 about the International Customary Humanitarian Law addressing the challenges when the

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<sup>69</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006 P30-31

implementation of treaty based IHL, the study mentioned 161 rules of the customary IHL categories in six pillars, in which should be implemented during both an international and non-international armed conflict.

- A- Principle of distinction.
- B- Protection of persons and objects.
- C- Warfare methods.
- D- Weapons.
- E- Hors de Combat. (the treatment of civilians).
- F- The implementation.<sup>70</sup>

### **3.5.3 International Human Rights Law (IHRL)**

International human rights law is part of the international law which is shaped by international treaties, where it is clear in its declarations and covenants on how individuals have the many human rights, and the responsibility of states in order to respect the following rights, in 1948 it was clear at the Universal Declaration of Human Rights, and the International Covenants on Civil, Political and Economic, Social and Cultural rights (1966).

States who sign for the IHL treaties and covenants will be also considered as a signatory with a clear ratification for the international human rights law, Meanwhile each state's primary responsibility is to hold on and guarantee human rights for all civilians within its territories.

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<sup>70</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006 P32-33

Since armed groups are not part or a signatory of such treaties and covenants for human rights laws, members and individuals of an armed groups will be accountable for any human rights violations under the national law and international law.

The application of International Human Rights Law is valid in both War and peace times, and states should never deviate from applying these laws under any circumstances, such as public emergency cases, meanwhile The International Covenant on Civil and Political Rights (ICCPR) identifies the human rights laws that will be never suspended under any situation.

A- Art. 6 Right to Life

B- Art. 7 Prohibition of torture and inhuman treatment.

C- Art. 8 Prohibition of Slavery.

D- Art. 11 Prohibition of detaining due to the inability to perform an obligation.

E- Art. 15 Prohibition of the application of criminal law retroactively.

F- Art. 16 Rights of person's recognition before the law.

G- Art. 18 Rights of freedom of thoughts, conscience and worship.

Some provisions of the international human rights law were shaped by the customary law, thus the following norms should be binding all states, even if a certain state did agree and consented to other or specific treaties.

a- Freedom from slavery

b- Freedom from inhuman treatment and torture

c- Freedom from banning to live life

d- Freedom from arbitrary imprisonment

e- Freedom of worship and beliefs



- f- The right of presumption of innocence (Art 11)
- g- Prohibition of child and pregnant woman execution.
- h- Prohibition of any actions leading to national, racial and religious discrimination and hatred.
- i- The right to marry
- j- The right of minorities to enjoy their language, cultural and religious beliefs.<sup>71</sup>

#### **4.5.3 International Criminal Law and the Rome Statute of the International Criminal Court**

The international criminal law is a set of laws extracted from the general principles of the international law, agreements between nation states and coordination on a specific criminal law activities and aspects; it is described as the reflection of the international and domestic criminal law.

The regulation of agreements will be clear at the treaty based international criminal law such as:

- (1998) The Rome Statute of the International Criminal Court.
- (2000) The United Nation Convention against Transnational Organized Crime.
- (2000) The Protocol to Prevent, Suppress and Punish Trafficking.

In July 1998 the Rome Statute of the International Criminal Court was born, which was the reason of establishing the International Criminal Court, it was the first international and permanent court to promote the rule of law, and to perform its jurisdiction over individuals who committed crimes of humanity and international concerns.

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<sup>71</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006 P34

The Rome Statute is the courts core and structure, it contains provisions that applies in both peace and war times, and other provisions which applies at a non international and international armed conflicts, and other provision that applies between armed groups armed conflicts, at a non international conflict the statute applies protection of individuals who do no more participation at armed conflict under the 1947 Geneva Convention.

The statute applies over individuals at armed groups in situation of non-international armed conflict, and the definition of (War Crimes) is related to the violation of Article 3 of the four Geneva Convention 1949.

It is also applied at the territory of the state that is facing a protracted conflict with non-governmental armed groups.

The ICC could practice its jurisdiction in cases of non-international conflict if the state territory carried the incident is a party at the Rome Statue or the accused person is a national of a state who is a party at the Rome Statute, it also provides individuals at the responsibility for criminal acts as well armed groups commanders as mentioned in Article 25 & 28.

It is important to not use the ICC as a threat at any humanitarian negotiations table in order to forward a sealed deal, but it will identify the level act and involvement at any violations, as well for the negotiator not to be misunderstood and moved away from the main objectives at any humanitarian negotiations.<sup>72</sup>

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<sup>72</sup> G. Mc HUGH and M. BLESSER, Humanitarian Negotiations with Armed groups, United Nations 2006 p 35-36

## **Chapter 5**

### **Case Study**

There are tremendous efforts and publications, studies and researches done by academics who are truly specialized at the humanitarian sector, also practitioners do possess the hardest work and contribution to heal the wounds behind the shadows of the pain caused by conflicts, all of that gave me the motivation to make the case study part of the Palestinian Israeli Conflict.

Interviewing several NGOs and International Organizations heads and representatives, who are providing their humanitarian services and assistance at this context, as to experience and lessons learnt happens to them during implementing their duties, as the usual practice for many of them, they are obliged to keep on good relations between all parties of the conflict in order to obtain security and access to the vulnerable groups who are affected by the armed conflict.

The point of view of these humanitarian actors at the Palestinian Israeli conflict is to be taken in considerations as they are an important role player in healing the wounds and assist in developing the society from different aspects.

Many publications and literature reviews will be found through the web, media and other studies addressing the international laws violations that took place at this context from both sides, as well addresses the humanitarian needs that is occurring in Gaza strip in specific as well the West Bank, Settlements construction and its legality, Jerusalem statutes, detainees, Refugees, homes demolitions and the list goes on.

The international laws instruments are one of the tools of conflict resolution, parties of the conflicts and belligerents, individuals, armed groups and state and non-state actors should abide during any international or non-international conflict, and even when peace is absent, the laws of war and conventions were agreed on internationally and customary.

This research is done under neutral and scientific methodology, in the coming section some articles are taken as the focus point on the main output, which is on how the International Humanitarian Law as a comparative analysis and the status of the Palestinian Israeli conflict measurement, but the main results will be assessing the role of humanitarian actors in introducing and implementing the international tools at this context, as rationally at any armed conflict once these tools has been respected and implemented would result a different output and an impact on the context.

Additionally, this study does not aim to criticize any humanitarian actor at this context, it is to assist and building the society and stop the violence those civilians and others who are not participating at this conflict, it is a water drop in the ocean of the humanitarian studies and the conflict resolution school.

## **5.1 The International Law and the Palestinian Israeli conflict**

Through several readings I have been acquainted with, different arguments from both sides narratives will be found, international scope and analyses describes how it is important to implement the International Laws and Norms in the Palestinian Israeli conflict.

Even at all context the International laws in general including the International Human Rights Law and the International Humanitarian Law in specific should be respected and implemented, meanwhile the Palestinian Israeli conflict is to be seen the need to monitor and assist, due to violation for all these international laws, were it is seen once implemented at this context could bring in stability and non-violence environment.

At this context, many arguments noted the most issues of humanitarian law violations, starting from the Status of the Territories on how Israel is taking in charge of the Administrative control since 1967, west bank and Gaza strip control, meanwhile denial of legal, political and historic rights, mentioning also the negotiation process between Palestinians represented by the PA and Israelis to determent the final statutes of these areas.

The 1995 Israeli Palestinian agreement in regard the West Bank and Gaza strip meanwhile it was witnessed internationally from many nations, to Palestinians to take control of the agreed A& B areas and Gaza, Israel keeping the control over area C only, but the fact is that all areas mentioned stayed occupied and under the Israeli military intervention at any time willing to.

Meanwhile Israel still creates a control and siege over the Gaza strip, which is internally controlled by Hamas government, viewed as terrorist organization controlling with a fundamentalist Islamist administration lacking any form of democratic governance,

meanwhile population in Gaza are facing a humanitarian crises from all dimension, and an armed confrontation, rocket shelling and aircraft strikes took place and happening till this present, causing casualties from both sides civilians, but clearly this became an asymmetric armed conflict.

The occupation aspect starting from the 1948 war then followed by the 1967 (six days war) ended the Israelis taking control of the West Bank, Gaza and Jerusalem.

A clear violation of the fourth Geneva Convention by the Israel government's settlement policy at the West Bank, were Article 49 of the Geneva Convention in which was edited in 1958 that is attributed in situations of the occupying powers part of its population the willingness to be transferred to the occupied territories to be colonized.<sup>73</sup>

Comes also with the Palestinian Israeli conflict the case of the Separation Barrier that Israel built around and in the Palestinian territories, Israel justification was the security measurers and considerations from Palestinian infiltration and suicide bombers against its civilians, this action made things get worst for the negotiation tables to maintain an agreement with the conflicted parties as it tackles humanitarian aspect within its implementation, while the International Court of Justice (ICJ) questioned the legality of this barrier, and consider the action behind building such a barrier is a failed justification.

Jerusalem and in particular the eastern part of it , is considered by the international community no less occupied than the West Bank and Gaza strip, not to forget the essential holy fact of Jerusalem for the three religions central place, and after the 1967 war Israel captured the city for the Jewish religious believes and consider it an integral

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<sup>73</sup> International humanitarian law, ICRC and Israel's status in the Territories (Volume 94 Number 888 Winter 2012

part of Israel, meanwhile Israel is committed by the Oslo accord to negotiate the issue of Jerusalem with the Palestinians to reach an agreement within.<sup>74</sup>

Israel consider itself as in a state of war since 1948, and from that time has engaged in numerous military operations and administration in the occupied territories, and always finds out a through way out to legalize its actions within the international consensus on IHL, they even made their own interpretations of law such as (unlawful combatants) instead of POW prisoners of war, so they will not be abiding under the IHL and receive the treatment of the prisoners under the Geneva conventions.

The additional Protocol I and II (1977) was expanded in order to insure protection and humanitarian law in cases of non international armed conflicts or not between states, the additional Protocol I gave the right of self determination and characterized armed conflicts against alien occupying and colonial powers as well against racist regimes therefore non state actors to be brought under the IHL umbrella, Then the focus of Additional Protocol II addressed IHL in the internal armed conflict such as the revolutions and civil wars .

So, under Protocol I the occupied population have the right to fight for their freedom and self determination, however Israel and the US did not sign this protocol, believing that non-state groups do not have the right to fight against them.

It is to be called unconventional and international state of war in this context as long the fact of stateless Palestinians , and Israel is the only state within, after the 1967 war Israel developed its legal laws and its status within the West Bank and Gaza which is far

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<sup>74</sup> International humanitarian law, ICRC and Israel's status in the Territories (Volume 94 Number 888 Winter 2012



from the international consensus for the humanitarian principles in specific the treatment of civilians in the military occupied territories, according to the Israeli view the Fourth Geneva Convention is not applicable in the West Bank and Gaza and not consider them occupied as Jordan and Egypt were the occupying powers before the 1948 war, therefore the stateless Palestinians are not part of the Geneva Conventions nor beneficiaries.

Israel also criminalized any Palestinian nationalism or terrorism or who creates a threat against the Israeli state including the nonviolent activities were criminalized as well, therefore Israel view itself in interpretation the law the right to security and to justify the brutal interrogations, collective punishments, extrajudicial executions and prosecution.

The Israeli main legal ideology was reinforced by the Israel's High Court of Justice, which is directly supporting the (Jewish Israeli) legitimacy, in which seen as a violate the Fourth Geneva Convention in the settlement issue, moving its citizens to live in the occupied territories, deporting Palestinians, Prosecuting civilians including minors in the military court.

Israel was the first state in the world to authorized publicly the torture practice in 1987 in which constitutes under the international law, but after a domestic and international pressures in 1999 the high court of Justice came with a decision prohibiting the practice used of (moderate physical pressure) leaving the possibilities opened for using it in exceptional cases.

Israel did some modifications in regard the legal framework for the West Bank and Gaza in 1990, to adapt the political changes resulting from the Palestinian Israeli negotiations and the establishment of the PA Palestinian Authority in 1994, the Oslo accord agreement of 1995 to include obligations on the Israeli military administration to

respect the international law during the temporary transitional period before the final agreement, but the Israeli policies kept on violating the international law which included in the settlement construction and the growing land confiscation of the Palestinians .

Six weeks after the collapse of Camp David final status negotiations on 28 September 2000, the second Intifada erupted, Israel deployed military against demonstrating crowds, as this massive use of force was rationalized by the Israelis that Palestine is not a state and Israel will not admit that IHL to be applied, therefore they have the right to use military force against Palestinians but not accepting them to possess the right to self defense and to retaliate.

Then in November 2000 Israel publicly announced the use of assassinations as an official policy, naming them as (Targeted Killings) or (Liquidations) and preemptive strikes against individuals who pose imminent threat meanwhile such acts are classified under IHL as a war crimes, Israel officials on its role rationalized these assassinations by blaming the Palestinians of hostilities and act of terror, and the laws of war permits the killing of the enemy, these individuals were not possible to capture and consider them a threat, and these acts are legitimate of national defense.

The Hamas and Islamic Jihad suicide bombing campaign which started on January 2001 inside Israel was also a clear violation of IHL principle of distinction civilian immunity, any attacks targets against civilians is classified as (crimes against humanity) under the international human right s law and also considered War Crimes, under the IHL if done by an armed group in the armed conflict context.

March 2002 Israel launched a full scale military assault naming it (Operation Defensive Shield) in Jenin refugee camp, Israeli soldiers used civilians as a human shield to protect themselves moving from house to house, with armored bulldozers destroying

homes while some people were still inside and that was a clear violation of civilian immunity, on April 19 the UN Security Council voted to send a fact finding mission to Jenin, but faced with an Israeli refusal of accepting the UN Delegation, and on May 1<sup>st</sup> it was disbanded under the US threat of Veto.

The Israeli operations at the second intifada destroyed directly and targeted the PA functional capacities, as well to create a direct control over the Palestinians, furthermore Israel did not confess any responsibility toward the safety of the Palestinian civilians while adopting the (War Model) and continuing employing the (Law Enforcement Model), as since the year 2000 the number of the Palestinian detainees ranged from 7000 to 15000, when the Israeli Knesset passed the (Illegal Combatants Law) which allows to capture and imprison anyone who is suspected to participate directly or indirectly at hostile activities against Israel, some Palestinians were disappeared after their arrest, and no trace or information could be obtained about them but were informed that are held in a secret facilities named under the number (1391), during detention and interrogation Palestinians described several tactics such as physical pressure, isolation, protracted hooding, abuse and temperature exposure with sleep deprivation.<sup>75</sup>

The Israeli side argument and defense about the statutes of occupation and International Law violations comes in two main clusters, first that the 4<sup>th</sup> Geneva convention is not applicable at the West Bank and Gaza case as it is not to be considered occupation but to be considered administrative, even though Israel accepted to adhere and comply vulnerary to the International Laws and the humanitarian standards within the 4<sup>th</sup> Hauge

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<sup>75</sup> Lisa HAJJAR, International Humanitarian Law and War On Terror, A comparative Analysis of Israel And American Doctrines And Policies.

conventions, secondly Israel believes that they possess the right to implement its policies in these territories in accordance to their security measures and needs.<sup>76</sup>

After the six days war of 1967, the Israeli military commander announced several laws legislations, executive and judicial laws which handles all powers to the military authorities controlling over all the preexisting laws to take in charge and regulate all aspects of life over the Palestinians such as natural resources, taxes and agriculture, among these military orders the no. 378 addressing the security criminal detention and the order no. 1229 which allows the Administrative detention without trial and charges for a prolonged period, under this systematic military regime Palestinians became a subject of a longer detention periods comparing to the Jewish persons who committed the same crimes in the same territories.<sup>77</sup>

## **5.2 The context from a humanitarian perspective**

The 1949 fourth Geneva Convention was legally applied to this context after the support of ICRC and many states and to be considered as occupied territories, meanwhile Israel promised to apply IHL but in its view with several arguments that it is not in full legal force.

Israel violations are several but indicated at, to apply physical pressure to many detainees to extract information, comes the arbitrary administrative detentions.

Other issues to be brought under the fourth Geneva Convention in this context, is building the Jewish settlements, using collective punishment, home demolishing of the Palestinians as another type of punishment, expulsion of the Palestinian population from

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<sup>76</sup>A. FALK & B.H. Weston, The Relevance of International Law to the Palestinian Rights in the West .R -the Harvard International Law Journal 32,1991, P(132 ,Bank and Gaza: In legal Defense of the Intifada (138

<sup>77</sup>J. DUGARD & J. REYNOLDS, Apartheid, International Law and Occupied Palestinian Territory, The European Journal of International Law Vol.24 no.3, Oxford University.2013. P(909-910)

their territories then seizing these lands and resources as well using a military force over civilians, also Israel build a separation wall that seize more Palestinian lands and resources as well deprived civilians farmers to access their lands and other economic opportunities all was and still another clear violation of the fourth Geneva Convention.<sup>78</sup>

### **5.3 Balance of Power, Structural and Resource Power**

If we also look at the Palestinian Israeli conflict in accordance to (Johan GALTUNG) conflict analyses, as only a comparison at his famous (Theories of Conflict), when stating the Dimensions of Conflict, as the main five pillars by the Actors, Goals, Incompatibility, Pursuit and the ABC Triangle.

Under the Resource section he explained that theory of conflict is useless without the theory of power, when stating that actors of the conflict are representing the conflict itself but the balance of power in favor of one actor is a role player at the conflict itself and making it asymmetric.

The boarder concepts of (Top Dogs) and (Under Dogs) are being used to distinguish between the actors of the conflict for who possess to the all kinds of power to each favor and could briefly set in five analytical approaches.

First the separation between the main two definitions of structural power and resource power as the first derive from the structure oriented and built from the position of the social structure, meanwhile the resource power is the actor oriented and reflected by the society to balance the structural power.

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<sup>78</sup> D.P. Forsythe, The Humanitarians by ICRC, Cambridge2005, (P70- 74)

Second, both Structural and resource power are relational and different, an example the stick and carrot concept, as the structural power is institutionalized meanwhile resource power is to be determined by the ad hoc division,

Third, the latent or limited resources owned by the (Under Dogs) being unable to mobilize since mobilization is the main key to the resolution and revolution theory of the structural conflict, which leads here to additional concepts of countervailing power and that under this power comes the power balance and power negation., but with respect of the conventional distinction between the remunerative, punitive and ideological powers.

Fourth, power negation by the top dogs and to understand that resource power effect mostly the under dogs at the structural power system, power negation give the top dogs to steer the conflict in their favors when controlling the resource power to the under dogs believing and defining that as part of his own values within his self-interests, as a result three properties emerged by the power negation creating the what is so called the real autonomy in the structural conflict by the top dogs ideology and they are ( self-respect, self-reliance and fearlessness).<sup>79</sup>

#### **5.4 Understanding the Israeli Palestinian by Conflict Transformation for Elementary Actor Conflicts**

The following diagram will illustrate the implementation of the conflict, it is mapping a two actors conflict formation.

A1 and A2 the actors (Israel and Palestine)

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<sup>79</sup>Johan GALTUNG, Theories of Conflict (p 101 – 104)

G1 and G2 the Goals, the contested lands, Israel claims legitimate ownership by religious beliefs, Palestinians being there before the Israelis.

So (A1, A2; G1,G2), If  $A1=A2=A$  the formation to be a dilemma (in A; if  $G1=G2$  then a frustration to be the result, if not it is to be a dispute.

If  $G1=G2=G$  so the dispute is over the same Goal.

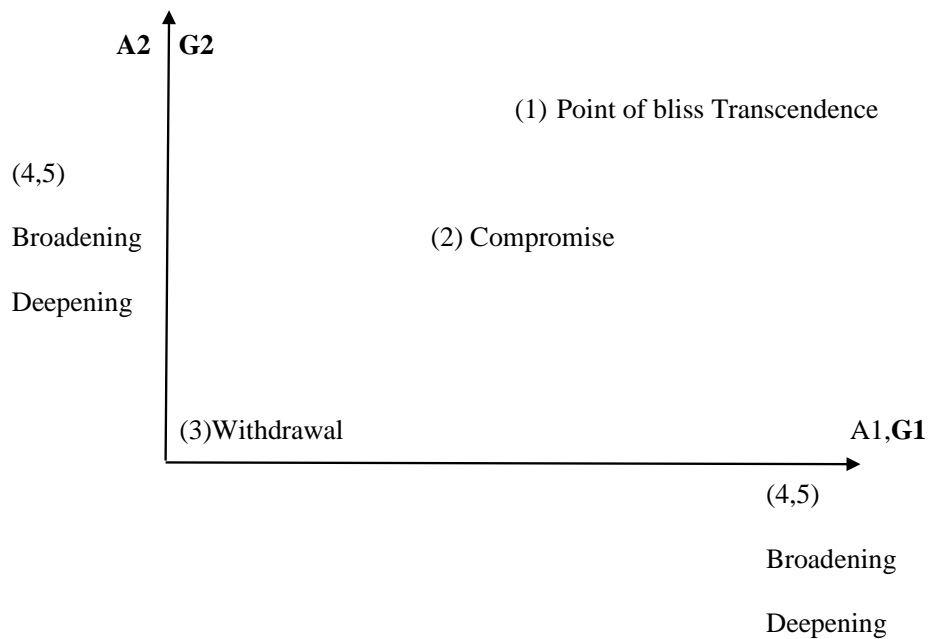


Figure (2) Basic Diagram for Elementary Conflict Transformation

A compromise two-state solution was proposed by the PNC in the 15 November 1988 resolution, it could not be a 50/50 but not a 100/0.<sup>80</sup>

<sup>80</sup> J. GALTUNG, PAECE BY PEACEFUL MEANS, Peace and Conflict, Development and Civilization, PRIO, 1996, P(95-98)

## 5.5 Why the Two-State Solution?

If we look back at history we will find many examples of two state separation solution to settle political, ethnic based, religious and even economic conflicts.

India and Pakistan are one example, as well the international committee recognition of Serbia and Montenegro, and recently Sudan and the Republic of South Sudan.

As the international community decided to end the conflicts at these countries, indeed Palestine and Israel should be separated into two nations so the population of the similar ethnic, religious and cultural identity enjoy self-government, by doing so, there will be no air strikes, intifadas and casualties from both sides, in 1979 the former European Community confirmed that the lasting peace will only come from a two state solution.<sup>81</sup>

Within this conflict the nature of acknowledgment of the others nationhood is another challenge , both sides shares a mutual denial of the other side`s identity as considered to be a zero sum conflict from the aspect of national identity and existence, since each party to be imposed by many obligations once acknowledged from the other side, the struggle here to be for the Palestinian to obtain the fully recognized state meanwhile it is to be less an issue for the Israeli side since they already have a state running in the international arena.<sup>82</sup>

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<sup>81</sup> L. Kenneth, Peace in Israel and Palestine: Moving from Conversation to Implementation of A Two-State Solution, , Bluebook 20<sup>th</sup> ed., (2018) (P 265-268)

<sup>82</sup> H. Kelman, Acknowledging The Other`s Nationhood: How To Create a Momentum for The Israeli-Palestinian Negotiations, Journal of Palestine Studies XXII, no I , 1992, p (29-34)



## **5.6 The ICJ and the Judicial Side, the Separation Wall and the Two States Solution.**

Based on the United Nations report and documents the ICJ has ruled, were it was the first of a kind to do in accordance to an international judicial body and international law applicability.

The resolution of 1515 of the Security Council was acknowledged by the ICJ who on its role recognized the roadmap of the two state solution for the Israeli Palestinian conflict, since this road map does not contain a separation wall part of the solution plan, which resulted the ICJ to reject the Israeli argument about this wall who they claim that the construction of this wall is integrated with the two state road map plan,.

The ICJ announced that this wall is not and will not be part of any future plans such as refugees and boarders, and will not be part of the peace negotiations and plans, as well will not be considered part of the International Law framework, as it is to be seen a big risk in the Palestinian Nation state establishment and destroying any future agreements for a two state solution .<sup>83</sup>

## **5.7 Research Interview Questions & Objectives.**

I would appreciate and to be honored by your help and support in finalizing and contributing with the answers of the following questions that will be used for research purpose only, it doesn't mean to tackle any confidential information , only to measure the results of the research question and hypothesis, it will be an added value for the Conflict Resolution & Development Graduate Studies at the AAUP in Ramallah, and to

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<sup>83</sup> P.H Bakkert, The World Court's Regarding Israel's West Bank Barrier and the Primacy of International Law: An Insider's Perspective, Cornell,2005, (P 556-557)

introduce the important role of Humanitarian Actions in conflicts in General and in the Palestinian Israeli context in specific.

**Title:** The Impact of Humanitarian Negotiations and Challenges at the Conflict Zones within the Implementation of IHL.

### **5.8 Research Question:**

How Humanitarian Negotiations contributes at the humanitarian actions, what kind of facilitation it provides for the humanitarian bodies, how could practitioners at this field customize and adapt this process to achieve success.

Please feel free to answer any of the below questions, if not feeling comfortable in answering any then leave it blank.

### **5.9 Questions:**

1- In the Israeli Palestinian conflict, how would you evaluate the level of (Name of NGO)

A- Access:

B- Assistance:

C- Protection:

2- Evaluate the level of Rejection with each counterpart –

A- Gaza Government

B- PA Government

C- Israeli Government

- 3- When interacting with Hamas government, do you believe they are seeking an underneath legitimacy and recognition through NGO`s and international organizations?
- 4- Evaluate the level of respect and challenging in accepting of the International laws in General and IHL in specific for each party of this context
  - A- Gaza Government
  - B- PA Government
  - C- Israeli Government
- 5- What are the biggest accomplishment and failure do you consider took place for (Name of Organization) at this context?
- 6- Comments, recommendation and suggestions related to this subject, (Freely)

End of questions

I managed to communicate with ICRC Jerusalem Mission my work place, and requested their assistance to obtain the answers of the following questions, in which I wanted to measure the impacts of the humanitarian negotiations that is taking place in this context, as well, OCHA agreed to help, meanwhile I faced rejection from other NGOs and International organizations due to the sensitivity of the questions, Even though ICRC and OCHA agreed to assist, but some questions kept unanswered as seems to be against the principles but taking to note that both organizations are very well enrolled at the humanitarian negotiations in general, and are the most practitioners in this field, so considering their respond is not the answers of the organizations but as personnel's who are well practiced at the context.

Mr. David QUESNE- ICRC Jerusalem Head of Mission responded on the 5<sup>th</sup> of February 2020, to my questions via e email.

The next was an interview with one of OCHA staff, head of coordination at the Israeli Palestinian context, who agreed to provide me the answers, I recorder the interview and both results will be available at the university library within a separate references section.

## 5.10 Interview Coding and Analyses

### ICRC HoM Answers

Question	Answer	Coding	Subjects
<p>1-In the Israeli Palestinian conflict, how would you evaluate the level of (ICRC)</p> <p>A- Access:</p> <p>B- Assistance:</p> <p>C- Protection:</p>	<p>Access: There is generally no issue for the ICRC to access the affected people in Israel and the occupied territories. The few situations preventing access are linked to security considerations where the ICRC evaluates that the risk is too high for its staff like going to the fence during the Great Return March. Access to Places of Detention in the Palestinian Territory is one of the best worldwide for the ICRC and it is also respected by Israel with concerns Palestinian detainees.</p> <p>Assistance: The level of assistance is generally adapted to the needs except in Gaza where there are gaps that can't be filled by humanitarian actors and require a political solution. Assistance to refugees relies mainly on the</p>	<p>Able to access.</p> <p>Security risk for ICRC staff.</p> <p>The ability of ICRC to reach detainees at both sides of the parties</p> <p>Assistance level is adapted.</p> <p>Gaza assistance gap, and the political solution need.</p> <p>UNURWA reduction of services issue</p> <p>The need to respect the law by the occupying power.</p>	<p>Accessibility</p> <p>Access barriers</p> <p>Humanitarian services.</p> <p>UNURWA</p> <p>International Law</p> <p>Respect the Law</p>

	<p>capacity of UNRWA to operate, which has become more and more a challenge and big concern for the future.</p> <p>Protection: Protection should be understood in the context of IL-OT mainly as the respect of the law of occupation. In that in mind, it can certainly be asserted that the level of Protection has not been great. It could be seen medium as people are globally protected and taken care of if one considers only life integrity but, in the meantime, the occupied population is affected by cases of Use of Force, Restriction of Freedom of movement, Destruction of Property, Eviction, Violence, which stem from several causes such as the Settlement Enterprise Initiative, the closure of Gaza, etc. which should not exist.</p>		
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Question	Answer	Coding	Subjects
<p>2- Evaluate the level of Rejection with each counterpart –</p> <p>A-Gaza Government</p> <p>B-PA Government</p> <p>C- Israeli Government</p>	<p>Sorry, can't answer that as it would go against the fundamental principles of the ICRC</p>	<p>Refraining from answering</p> <p>Respecting the fundamental principles of ICRC</p>	<p>Respecting the Fundamental principles of ICRC</p>

Question	Answer	Coding	Subjects
<p>3- When interacting with Hamas government, do you believe they are seeking an underneath legitimacy and recognition through NGO`s and international organizations?</p>	<p>There are various reasons that push authorities or armed groups around the world to engage with the ICRC such as ideological foundations that often rely on the wellbeing of the population, their responsibility vis a vis their people, the recognition of the added value the ICRC can bring and often the credit and legitimacy it gives them in the international arena.</p>	<p>The ideology from the people's will.</p> <p>Representing and the responsibility toward the population's wellbeing.</p> <p>Legitimacy in the international arena.</p>	<p>Internal and External factors.</p>

Question	Answer	Coding	Subjects
4- Evaluate the level of respect and challenging in accepting of the International laws in General and IHL in specific for each party of this context	Sorry, can't answer that as it would go against the fundamental principles of the ICRC	Refraining from answering Respecting the fundamental principles of ICRC	Respecting the Fundamental principles of ICRC

Question	Answer	Coding	Subjects
5-What are the biggest accomplishment and failure do you consider took place for (Name of Organization) at this context?	<p>The biggest accomplishment for the ICRC in the context of IL-OT certainly lies in its activity in favors of Palestinians detained in Israel through the regular visits carried out by its delegates to the Places of Detention and the Family Visit Program since 1968.</p> <p>The biggest failure of the International Community, including the ICRC, has probably been the inability to prevent the construction of Israeli settlements in the Occupied Palestinian Territory.</p>	<p>Palestinian detainees being vested by ICRC staff on regular basis.</p> <p>Detention family visit program.</p> <p>Failure to prevent the construction of Israeli settlements in the Occupied Palestinian Territory.</p>	<p>Accomplishments</p> <p>Failures</p> <p>Challenges and Barriers.</p>



Question	Answer	Coding	Subjects
6-Comments, recommendation and suggestions related to this subject, (Freely)	N/A	N/A	N/A

### UN staff member

Question	Answer	Coding	Subjects
<p>1- In the Israeli Palestinian conflict, how would you evaluate the level of (Name of NGO)</p> <p>A- Gaza Government</p> <p>B- PA Government</p> <p>C- Israeli Government</p>	<p>" I think in term of Access for us, Access with PA which is very , very strong, the PA greatly facilitates our work, because part of our rule is take care of the emergency preparedness file, with all of the parties here, because we are not a procurement agency or we do not implement programs , then we are for us the humanitarian community and to provide support to the humanitarian coordinator, in his role so being his secretarial being his eyes and ears pulling the actors together, part of that of course is through our access coordination unit, in OCHA we</p>	<p>Good relations with the PA, making it easier to operate.</p> <p>Provide assistance for all parties in emergency cases.</p> <p>Existence in this context is purely humanitarian and provides support.</p> <p>Permits issuing for humanitarian reasons.</p> <p>Interacting with the Palestinian MoH to transport medicine from to West Bank and Gaza.</p> <p>Monitoring the Humanitarian Laws being implemented.</p> <p>Actors of the conflict not respecting the IHL.</p> <p>Palestinian division is a great obstacle in interacting with the De Facto gov.</p>	<p>Support and good relations with the PA.</p> <p>Must respect the International Law.</p> <p>Parties of the conflict are not respecting the International Law.</p> <p>The Humanitarian crisis in Gaza.</p> <p>Not being able to influence.</p> <p>The idea of COGAT existence.</p>

	<p>provide and collectively apply for access permits, as now we are dealing with the MoH of the PA authority, for the movements of medicine between Gaza and the west Bank, for us we are guided by IHL which we are abide unrepeatd humanitarian Access unfortunately this is not necessarily the case for both parties, because of the Palestinian divide , and the humanitarian need and humanitarian assistance to Gaza or engagement with the de facto government, why de facto because it is not legitimate according to Ramallah , so this is definitely de facto , that is for access and assistance,</p> <p>In terms of Protection, for the UN we are primarily here is to serve the Palestinian people, but there is a wing that does capacity building support to the PA which is done by the office of the high</p>	<p>Humanitarian needs in Gaza.</p> <p>Our mission is to serve the Palestinian population.</p> <p>Office of the High Commissioner providing support for the PA in Justice and security</p> <p>Palestine joint to many HR, international treaties and conventions.</p> <p>Part of duties to monitor the PA of any violations.</p> <p>Becoming less influencing and more with the new USA Administration.</p> <p>Providing assistance to C areas.</p> <p>Israel violations.</p> <p>Jerusalem status, settlements.</p> <p>Assisting Musafer Yatta.</p> <p>Showing an unsatisfactory gesture for the COGAT interacting</p>	
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	<p>commissioner for human right in terms of security and justice sector, now in this part basically because the state of Palestine received observe status few years ago, the state of Palestine signed up too many human rights and International treaty conventions, like conventions against torture , convention on political and civil right, etc , so that is the only part the UN will actually does directly sort of looking into violations, of the Palestinian Authorities, etc so that the protection side with the PA, for us the rest of the Humanitarian community it is a big challenge we are finding less and less the ability to influence, this has been excesses by the current US administration particularly by the president, and the situation we have seen is evolving very fast on the ground, it started with the declaration of</p>		
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	<p>Jerusalem and a steady settlement activity, 3.20 and enfoldment basically to move forward into political agendas that have also resulted the work of humanitarian in much less space , so simple things about movement for example on implementing humanitarian assistance to provide area C, in particular has been effected, so we see a lot of confiscation , infrastructure targeting, it could be a school structure, it could be very basic things with the premise that we have not coordinated before , or PA has taken water net, look at Masafer Yatta , is it suppose to be there, is it suppose to be coordinated with COGAT,</p> <p>So, the bureaucratic imperilments as you have seen as a Palestinian has increased in the last two decades, this is the seen for us as humanitarians, we are</p>		
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	finding when we raise humanitarian concerns it is a lot more challenging,		
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Question	Answer	Coding	Subjects
<p>2-Evaluate the level of Rejection with each counterpart –</p> <p>A-Gaza Government</p> <p>B- PA Government</p> <p>C- Israeli Government</p>	<p>Which make us come to your question about the level of rejection, again I cant speak in regard the de facto authorities in Gaza, but for the PA I have to be frank they are very much side by side with us, they have some issues when it comes to the political divide between Gaza and West Bank, which sometimes increases, and we sort of say it is our job to feel your people, we are apolitical we understand your divide we hope you get over it, in term of finding solution for it, but from our side we will not engage as UN we have no contact policy but an</p>	<p>Refused to speak about the De Facto Government</p> <p>The Cooperation with the PA Government.</p> <p>Working on keeping the good relations with the Israeli Government.</p>	<p>Good Relations with all parties of the conflict.</p>

	<p>operational method ,</p> <p>just to gain access into Gaza as an example, you know we coordinate and this is open knowledge, so that's with the PA,</p> <p>We work a lot with line ministries, like Ministry of health , PWA Palestinian Water Authority, UNECEF etc, under the umbrella, so in general I don't think anyone of us can say the relationship with line ministries are bad,</p> <p>Our team in West Bank also covers the access restrictions systems and method, were we monitor on a daily basis everyday, we have good relations with the Palestinian DCL, Inform us where their issues with barrier gates, where are there check points, we try to go and intervene with the</p>		
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	<p>Israeli authorities, together with the Palestinian DCL, That line is actually very smooth, again in terms of our emergency preparedness file we also work with the PA very closely in terms of our disaster management for Palestine, so actually we are doing a lot of capacity building, together with the US the British the Italian civil protection mechanisms, so there is a lot more engagement that is going as you know bilaterally on many initiatives, but this also helps us capacity build with the Israeli as well because , they don't need capacity building but to work as partners to link together two parties with Jordan on disaster management, because at the end of the day it is so</p>		
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	<p>interlinked and if you want to provide International assistance, on movement of people in an event either or man made or a natural disaster you need both entities, so that is something we are working on together with the three parties, also we are preparing for a contingency planning, with all the different events that happened with this so called PLAN, that is getting more attraction in terms of the security council, Koshner , etc but also for us as humanitarian to start to start putting in place possible scenarios, we have seen it, the threat of annexation which has also been communicated by IL prime minister , and if that comes to force, so we are</p>		
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	<p>trying to keep this Negotiation channels very much opened , also to facilitate cooperation as much as possible were it is not too sensitive, because for us it is imperative we see what is happening on the ground we see the escalation, we see now we have plan, we have no choice, so we need to make sure and try to link together as much as we can,</p> <p>Are we successful?</p> <p>To a certain extend I can see that from our end as OCHA we have a lot of relationship building with government of Israel since 2015 there was a total breakdown as you know we go public with information that seem very aggressive, but its our job as we are the custodian of protection of</p>		
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	<p>civilians database we monitor search and arrest operations we monitor the access restriction movements, for Palestinians in the West Bank we also monitor settlers violence, demolishing etc, so it is the thought we are doing lost of protection work, monitoring and reporting, and of course we are here as the OCHA office of the OPT that's our mandate, so that's primarily what we are looking at, it makes things complicated, we try to do it in a very transparent way, we engage with them and raise humanitarian concerns, we raise the fact that this is what we are doing, we agree to disagree because we both have a role to play,</p>		
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	<p>so we are very clear with that, we keep to our mandate and we keep in respect of IHL at all times and the principles, it is not so easy , each of us have a job to do, were raising a concerns , but we never feel pressure to change the content, no, that's not our role we don't do that, this was the answer of the rejection part.</p> <p>Then skipping the respond of the de facto Government, as they are not covering that side.</p>		
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Question	Answer	Coding	Subjects
3-When interacting with Hamas government, do you believe they are seeking an underneath legitimacy and recognition through NGO`s and international organizations?	Skipping this part as the UN does not cover this section.	No Response	Barriers of interacting with Gaza.

Question	Answer	Coding	Subjects
<p>4- Evaluate the level of respect and challenging in accepting of the International laws in General and IHL in specific for each party of this context</p> <p>A-Gaza Government B- PA Government C-Israeli Government</p>	<p>Asked the question of level of respect of IHL and international laws within the actors of this context,</p> <p>She answered,</p> <p>For us everything we do it is in the public domain with regard the IL government we don't hide, as I just mentioned we are the OCHA office of the OPT, in terms of any disrespect of IHL, I think that is very clear we monitor it through the protection of civil DB we do assessments, on any demolishing that happens in the West bank and any settler violence cases, because we are the one that trigger interagency response, so we not only doing the assessments to count the number of the displaced what is happening the injured, etc, the main idea is to trigger inter agency response, so lets say we are doing a shelter cluster we have to do this, watch the needs,</p>	<p>Israel does not respect the International Law and not responding to the UN and security council reports.</p> <p>The PA violated the Human Rights and Humanitarian Law.</p> <p>Ministry of Health issue</p> <p>Keeping on reminding parties of the conflict to respect the IHL and IHRL,</p> <p>Private and public advocacy</p>	<p>Parties of the conflict do not respect the IHL and IHRL.</p> <p>Interacting in both private and public advocacy in regard any violations.</p>

	<p>protection from psychic social support or legal aid it depend that our role we trigger that, and that made in use the unique of this office, it is not a normal OCHA, because the evolution of how old we have been here since 2002 and doing this work before any actors arrived, so we continue with this because we have also the institutional memory about trends that have happened in this regard.</p> <p>I think we can all agree that IHL for IL government is a problem, this has been widely documented by many organizations here and the UN and according to the security council general assembly the human rights council and the number of reports that Israel has to respond, they even have a special report on the OPT that still has no access etc, so I think it is pretty clear we have</p>		
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	<p>the information in front of us,</p> <p>With the PA government and authority I think it is much more closed in a sense, because we don't have the mandate to monitor we have local groups, this is what we read in the media or through human rights groups, were there is actually a lot of decent that goes on and there is no freedom of speech so to say, you have seen those blogger that have disappeared or under police custody and a demonstration squashed very early etc, but I think there is an open engagement in terms of the ability to raise the concerns etc, and that comes with both parties, for us we do it out of our humanitarian side, we say we have an issue with the ministry of health, can you please not go through Nablus we just want to send it straight to Gaza, because that were the</p>		
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	<p>needs in terms of trauma energies from the GMI it is clear for us, with Israel as well we raise the concerns with the CLA with Beit El with Tel Aviv , and say we are concerned with situation of H2, concerned for the things happening in Jerusalem, and we give them the clear answer, and provide the opportunity to respond, 1448</p> <p>I think in some ways all of us we do mix between private advocacy and public advocacy, it depends on the case and also the sensitivity were it should go public or not, if there are no reaction then we go public, but sometimes it can be resolved at the private advocacy side, troubleshooting, and that is beyond, with the PA and the Israelis as well.</p> <p>I added about Israel is not being part of signatory of Protocol I and II and it is another different subject and</p>		
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	<p>argument.</p> <p>She responded, true it is a different argument, but it is not only about IHL, because at the end of the day they are a signatory to many human rights treaties, so we can also peruse that part, it is border than that. For us it can be both (IHRL) and (IHL) and we do that the humanitarian side of the UN community because under the office of the high commission of the human rights, and you have other human rights NGOs , as it is been a long standing practice that is not unique to Palestine it is across the board, and as you know signing these treaties is voluntary, (I added that all nations care about there international image) , that's the thing, because in the one hand Israel is very sensitive to that , because they feel so much double standards,, they are explaining we are not Syria or Yemen etc, to</p>		
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	<p>be frank when we talk to the MoFA this is not the barometer , you are not aspiring to be a Yemen, or a Syria because this is not a complex emergency in active conflict, is different it's a protracted crises, it is a primary protected crises, and having two separate systems for two bodies of people under the same area, so that's the issue, its not bombs are dropping no it is just very insidious West Bank is very insidious, yes it is not Gaza, having water thank God clean to drink , so the humanitarian in more sense of traditional humanitarian impact is certainly not the same in the West Bank, but you can go from north to south without fear without the ability to diverted or the ability to know reaching your final point, or the fact of these discriminatory laws, in terms of slandered of living is very different, not in</p>		
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	<p>counting Gaza, the fact that there is %20 of unemployment in the west bank, when the average wage is 2000 shekels and the Israelis 6000 shekels so it's a huge economical difference in one area , you still have the issue of settlements, were found in an Israeli NGO that 90% of settler valance finds no indigents, were it is dump in the air of impunity, there is a fear were there is very different access to the justice system and the outcomes compared to the Israelis, or non Arab descent, I think that is what we are trying to communicate, on the reason why there is this perception increase all the time, as that's always the complains we hear, not only from here but Israeli ambassadors abroad,</p>		
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Question	Answer	Coding	Subjects
5- What are the biggest accomplishment and failure do you consider took place for (Name of Organization) at this context?	<p>We are excited for the new Prime Minister, (Mohamad SHTAY),</p> <p>First of all he has demonstrate such good will, we hope that their good well is shared by the rest of the government, there is a sense that maybe the people do not believe in the PA anymore , because they are not in view of the times of the younger generation, the youth etc, let us face it a 64% unemployment in Gaza among the youth, and that has been increasing very fast, I think that is our faultier not just for OCHA but for the humanitarian community, what I will say is my personnel reading, we just allowed things to get bad to worst, we are so crippled because of</p>	<p>IL is responsible for the escalation.</p> <p>The failure to serve the Palestinian population.</p> <p>Did not provide great changes on the ground.</p> <p>The failure to stop and prevent the settlements construction and the Jerusalem statutes and others.</p> <p>The UN performed small things like scholarships, medical care, permits to leave Gaza.</p> <p>IL denies when confronted with the settlers and the IDF violations,</p> <p>Israel is so sensitive to this subject.</p>	<p>Accomplishments</p> <p>Failures</p> <p>Challenges and Barriers.</p>

	<p>Israel's strong ally, and we feel so frustrated over that, to the smallest point of a permit, of my colleges and team in the West Bank, ID holders who cannot come for work, or to do a demolishing assessment , from the smallest of things, to the fact that living situations of the Palestinians is getting worst over time, there is an increase in settlement activity, and all the indicators that shows things getting worst in Jerusalem, or the fact that still we have access issues around the West Bank, or in H2 we have allowed the TIPH to withdraw , of course it is beyond us, I think it is a collective failure, and there is donor fatigue, that is a failure I think, we feel we let the Palestinian down,.</p>		
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	<p>In terms of small accomplishment,</p> <p>when we see we have increased very simple things , like increase the number of permits to leave Gaza, through the Humanitarian coordinator, or x number of children can receive cancer treatment, and get them out of Gaza , that's a great accomplishment to us, unfortunately we don't have the big things to say , like settlement activity , or we going to remove extra restrictions, what we have found and doing our update, I wouldn't say it is our accomplishment,</p> <p>there are less extra restrictions now, that most of the villages have access, I wouldn't say it is the UN accomplishment,</p> <p>I am much more senikel and negative</p>		
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	<p>about what we can do here, I think we make sure collectively that Israel slows down their plans not to stop the plan but to keep trying to slow it down, until hopefully one day a peace process start in a series way and they do not need us here, that's the point, the goal is that we will not be needed here, that there is a two state solution , and the choice is made by the people, we are here trying just to slow it down, and to keep the people to live in some form of dignity, I don't think we are doing a good job as we could, because we ourselves are fighting for a space, but we take the small winds, we don't take the whole picture, we cant , so we take the really small thing if we can</p>		
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	<p>provide assistance to such as a female head to household with five children and lost her spouse with no money , and we can give her some rental house for few months until she figures things out, it is not perfect, but better knowing that in this weather she will be with her five children knowing what to do, no gradual plans I have to say , very modest quick small winds, when we achieve that , certain families in H2 can stay, or we can intervene to prevent repeated use of tear gas in schools, in H2 , or particular place in the north Nablus were settlers cam to make fire in the classroom ! we kept pushing them and make sure this does not happen in the future again, this is a school it is</p>		
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	<p>protected and you don't want us to go public, you clean up and control your settlers,</p> <p>I asked: do they respond?</p> <p>They are very sensitive for that, as what we try to do is that we give the facts, and it is important to show evidence, and they feel surprise, sometimes when there are soldiers involved, their respond this cant be happening as they have chain of command and they deviated from their task, then for us as much as we can, that is why the documentation and the evidence to us, I would say is our accomplishment,</p> <p>Together with Palestinian civil society, who have huge capacity?</p> <p>To be frank the joy</p>		
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	<p>of coming here was to work with very high capacity national staff and people. Because coming from other offices in locations you don't have the caliber of very highly educated people as you have here, and I think that is part the long turn investment of the international community with the support of the United Nations that helped in that , through UNURWA with human development, yes UNURWA was suppose to be temporary in nature , but that success story is about human development, it doesn't do with the relief works, or the temporary nature , or the fact of the refugees etc, that is outside the prevue of the humanitarian community, but what we can attest to is</p>		
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	<p>that the human development has been outstanding, what you have here people with very high competence very well educated, you can see that when talking to people , with all the Gaza stories, and despite all the circumstances, they still have scholarships through UNURWA, I used to be in UNURWA also, for an example the best student in UNURWA is actually a refugee last year who go t a place to Harvard, it is that small things that keep us to push here and fight.</p>		
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Question	Answer	Coding	Subjects
6- Comments, recommendation and suggestions related to this subject, (Freely)	<p>On negotiations ah?</p> <p>She asked,</p> <p>Ok, I `ve been here for three years and a bit, when you see the human capacity it also gives you very much hope, and when you see the restrictions of people, I am in to see a stronger UN position, and the fact that we are intergovernmental organization, and we are implementing what members states tell us, while there are few strong member states, and there are a huge number of member states that can turn the page, can be a role player, so in an ideal well, what I would like for us in the medium term a bit more empowered role here, to actually have for example with the European Union a united</p>	<p>UN Policy</p> <p>The Palestinian Division.</p> <p>There is no united message from the EU towards the Palestinian cause.</p> <p>Both creating a great barrier for the humanitarian actions.</p> <p>Humanitarian action has been politicized creating another big barrier.</p>	External Factors

	<p>message, because it is still very divided, I think that would help us on the ground also, to have more access, united positions that will very much help us, what we are also very crippled with the Palestinian divide that in itself is not helping, also in our work, because we are pushed as a humanitarian actors into the politicization between, because at the end of the day do not punish the people by withdrawing salaries, then we need receive our case load, and augment it, and it is not helping.</p> <p>We are humanitarian actors, and we have specific job to do, we want unimpeded access, with either party that is not present, with the PA I told you we work close relation they try their best, but I</p>		
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	wouldn't say it is perfect there are challenges, so if we can have member states that have a very clear position, I think that would also help us, with having a very strong position, on how the humanitarian work should be independent,		
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## Conclusion

Analyzing the output of the research questions, starting from the first one on the evaluation the level of the access, assistance and protection, since they are the main duties of Humanitarian actors in any context, behind those three duties came lots of negotiations and hard work, as the results of access is no issue for Humanitarian actors to any geographical location, but it seems that for security reasons and challenges access could be not applicable, services is reachable to those who needs including detention visits, a growing humanitarian need in Gaza due to the lack of a political solution so the assistance level will never be enough but humanitarians managed to cover a gap, the protection level in accordance to the international laws should be respected, the feeling of being less influencing to the conflict parties but in a good relations in between.

In my words I could say due to the Israeli violations of the international laws but also Israel cares of its international image they let Humanitarians to perform duties, so the creation of COGAT<sup>84</sup> was the solution, I had a chat with other NGOs in this context who refused to undergo these questions and explained that all their duties is performed through COGAT.

Coming to the second question of evaluating the level of rejection of each party, was a clear question to measure the challenges while interacting with each counterpart, and probably managed to understand how good or bad the relation could be, and here one side preferred not to answer that might go against the fundamental principles, meanwhile the other decided not to talk about the (De Facto) or Hamas government, but I could assure that Humanitarian actors should keep the good relations between all

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<sup>84</sup> The Coordinator of Government Activities in the Territories is a unit in the Israeli Ministry of Defense that engages in coordinating civilian issues between the Government of Israel, the Israel Defense Forces, international organizations, diplomats, and the Palestinian Authority.

parties of the conflict, the subject was explained by the good relations with the PA and keeping on good communication channels with the Israelis.

The third question sounded sensitive to answer for some, in other words the De Facto government seeking legitimacy through interacting with International Organizations, the pragmatic ideology is the motive behind as well the internal factors of the population will and the responsibility of the De Facto government toward its population, on the other hand the external factors pushing Hamas to be part of the international arena.

I can add in my note that Hamas is totally isolated from the international world, which leaves them with no other choice but to interact with humanitarian actors as well the humanitarian need in Gaza leaving the De Facto government not able to fill the gap.

The fourth question was a clear evaluation of respecting the IHL and international laws by each party of this context, not respecting meaning a violation of the laws, again refused to be answered by one side and the other side responded that Israel is having a hard time in respecting the international laws in general and the IHL in specific, due to the wide documentation that occurred by many organizations, as well there are many reports that Israel still did not respond for the security council general assembly and human rights council, there are also some violations for the IHL by the PA, but the challenge on how to react toward these violations, through public or private advocacy.

I believe in this context violations should be documented, monitored and dealt with a better international reaction, but with more monitoring and consistent attempts to make the message at all the international nations minds, there are a population of Palestinians struggling to have a decent life, separated by three geographic location and should undergo through the lack of the basic human needs and rights.

Asking the accomplishments and failures of each interviewee side, combined the optimistic vision of hope for a better peaceful future, the results could be categorized by four main factors, the accomplishments, the failure, the barriers/obstacles and the challenges.

The accomplishment of the ability to deliver humanitarian obligations and duties that is carried on by the actors, the failure side were both agreed of the settlements continuation as also Israel is responsible for the escalation of the conflict and the violations, meanwhile the failure and responsibility falls on the international community.

The last part was to add some missing issue and came up with a few words.

The Palestinian capacity is developing, the hope of a better future in succeeding to become independent and to live in peace, is a right.

Member states and the EU does not possess a united position toward the Palestinian cause, the internal Palestinian division holds the biggest challenge in going forward at any direction except the worst to the population, even a barrier to perform many humanitarian assistance, humanitarians are pushed into politicization in which becoming more challenging as they should remain independent.

I can summarize this journey with a few words of mine, according to my understanding and observations, humanitarian negotiations as a definition reveals behind lots of hard work, were it is constructed over several fundamentals such as the International Law as both the tool and the rule, as humanitarians occupy an important arena in the conflict resolution tools, the objective behind this research is to understand the relation between the humanitarian negotiations effect over the conflict, in both direct and indirect appearance,



Humanitarian negotiations and dialogue do have an effect over the context but could not force parties of the conflict to abide; using an international law at a specific guideline will empower the holder of this rule, on the other hand, practitioners at this field scoped on different aspects and challenges, which could result in a success or a failure.

Humanitarian actors work should be as a clear indicator to the humanitarian issues at any conflict, were the efforts and objectives are purely humane by helping with the developments of nations or even individuals, or by filling the needs and gaps of vulnerable civilians who are affected by a conflict in healing their wounds.

The Palestinian Israeli conflict taken as the case study is our duty, during studies we feel obliged to scale and measure other international context to the Palestinian, what is taking place now in this time could be defined by frustration and disappointment for the Palestinians, on the other hand aggressiveness and biased by the Israelis allied with the US.

This context in specific combines all the conflict shapes of violence, physical and structural were a humanitarian need evolved as a result, population in Gaza under a collective punishment living inhuman circumstances, West Bank minimized between the settlements, Jerusalem statute, refugee rights of return and the list goes on,

Palestinians need to look for an ally and a third party and a partner to assist in achieving peace, as well to enrich international relations; the international law tools could be very helpful to the Palestinians in their struggle to become a recognized state at the international community, as well a safe zone to avoid any imposed violations.

Last, we are obliged to contribute as humans to prevent the suffer of others,

The Palestinians are left now with no hope, no future, no life and no recognition.

Meanwhile it is possible to use the international law tools to empower the Palestinian position; as well implementing these tools will bring prosperity, growth, development and peace.

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## الملخص

يقوم البحث بطرح عدة نقاط بما يخص ت ط ب يق المفاوضات الانسانية من قبل المنظمات الادوليه ومؤسسات الامم المتحده في مناطق النزاعات المسلحه بين الاطراف.

تقسمت فصول البحث بشرح مبادئ الاعمال الانسانية بشكل عام ومن ثم كيفيه تطبيق المفاوضات الانسانية بين اطراف النزاع حيث يتم توضيح اليه التعامل مع الحكومات والمجموعات المسلحه، من اجل اصال المساعدات بشكل سليم وامن وفعال للافراد والمجموعات المتضرره اثر النزاعات المسلحه.

مفهوم المفاوضات الانسانية مبني على اسس قد تم تدوينها من قبل المتمرسون في هذا المجال، ويواجه العاملين في المجال الانساني عدة تحديات اثناء مباشره العمل، حيث تحدث المفاوضات الانسانية بنائا على القوانين والاعراف الدوليه بشكل عام وتطبيقا للقانون الانساني الدولي وقوانين حقوق الانسان.

يقوم البحث بالعمل على الربط بين لمفاوضات الانسانية بمبادئها وتحدياتها ومن ثم تطبيقها وربطها مباشره مع القوانين الدوليه.

وضعت الدراسه النزاع الفلسطيني الاسرائيلي كحاله للدراسه، حيث ذكرت اهم النقاط المتداوله بخصوص هذا النزاع من خلال رؤيه الامم المتحده والمجتمع الدولي من حيث اختراقات تلك العهود والقوانين الدوليه.

طرحت اسئله كمييه لقياس مدى تاثير تلك المفاوضات في هذا الاطار من خلال مقابلات لرؤساء مؤسسات ومنظمات انسانيه دوليه تمارس النشاط الانساني متمركزه بالقدس.

تم اختيار هذه العينه للبحث بسبب الرؤيه بان الكوادر في المجال الانساني في هذا السياق تقوم بالتواصل وتذكير اطراف النزاع باحترام القوانين الدوليه وعدم اختراقها، وايضا كونهم على علم و احداث ما يحصل في هذا السياق.

قد تم تحليل اجابات المقابلات بطريقه الترميز ومن ثم تقسيمها لموضوعات وذكر اهم المواضيع التي تخص الوضع الانساني الحاصل بسبب هذا النزاع .

موضوع البحث كبير ولكن اهتم البحث وتطرق بالفرضيه البحثيه لقياس اثر تلك المفاوضات الانسانية الحاصله بين اطراف النزاع على النزاع وكيفيه التفاوض وفقا لمعرف القانون الدولي.

يستطيع القارئ فهم السياق من خلال ترتيب النقاط الاسايه للمفاوضات الانسانيه وايضا تحليل الاجابات حيث كما ذكر بان الموضوع كبير ويشمل عدة نقاط بحثيه, وكانت النتائج والتوصيات مبنيه على اساس ما توصل له الباحث.