

# ENHANCING THE HUMANITARIAN AGENDA

## PARTNERSHIPS AND AGREEMENTS



© ABC News

SEPTEMBER 26<sup>TH</sup> 2019

ROYAL ACADEMY OF ENGINEERING, LONDON

## CONFERENCE REPORT

# ENHANCING THE HUMANITARIAN AGENDA: PARTNERSHIPS AND AGREEMENTS

### INTRODUCTION

RedR has been working to facilitate collaboration between the humanitarian and private sectors on the response to urban crises since 2013, through the 'Ready to Respond' programme, funded by Lloyd's Charities Trust, the grant-making charity of the Lloyd's insurance market. The programme is a response to global urbanisation and aims to develop resilience and effective responses to humanitarian disasters in urban settings.

### WHY PARTNERSHIPS AND AGREEMENTS?

As the private and humanitarian sectors work more closely together in responding to urban emergencies, overcoming the challenges of defining partnerships and agreements becomes increasingly important. Whilst such definition takes time, experience and a collaborative working approach, the risks of not investing in these can be high.

Together there is scope for improving collaboration across all stages and levels of urban response. How do we make sure we are finding the right partners, both at an international and local level? How do we develop the trust and transparency for informal collaborations and partnerships to remain flexible yet functional? And how do we then scale up these agreements and ensure formalised contracts are fit for purpose?

This conference aimed to build on the work done to date as part of the Ready to Respond (Phase II) project, giving key actors from both sectors the opportunity to share experiences, learn from successful initiatives, address common challenges, and strengthen their networks: All with a view to moving close to establishing best practice in this increasingly important field of humanitarian work.

## AGENDA

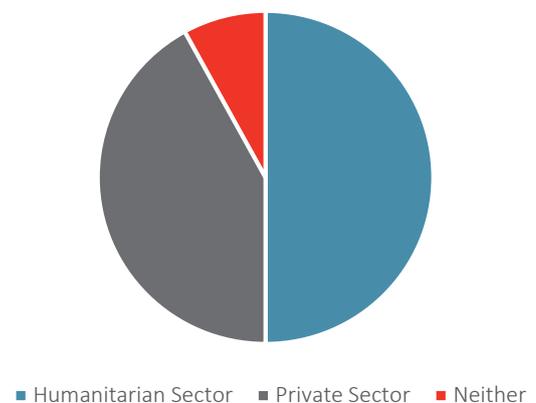
| TIME | SPEAKER   |
|------|---|
| 2:15 | Introduction from the Chair – Wendy Fenton, ODI   |
| 2:35 | Darren Gill, Arup – Intellectual Property, Liability and Duty of Care   |
| 2:50 | Tim Forster, Oxfam – Lessons and Experiences from Public-Private Partnerships                                   |
| 3:05 | Interactive Feedback Session  |
| 3:35 | Angela Khudonazarova, WSP – An Overview of Risk Assessment Processes and Challenges in Contracts                |
| 3:50 | John Heelam, Concern Worldwide – Challenges Managing Construction Contracts and Support from the Private Sector |
| 4:05 | Interactive Moving Discussions  |
| 5:15 | Wrap up – Wendy Fenton  |
| 5:30 | Drinks Reception  |

## SUMMARY OF PARTICIPANTS

A total of 38 participants attended the conference, with an almost equal split between those working in the humanitarian sector, and those working in the private sector (50% and 42% respectively). Participants included representatives from Save the Children, Concern Worldwide, CAFOD and Medair in the humanitarian sector and Ramboll, BuroHappold and Mott Macdonald from the Private Sector, as well as the University of Cambridge.

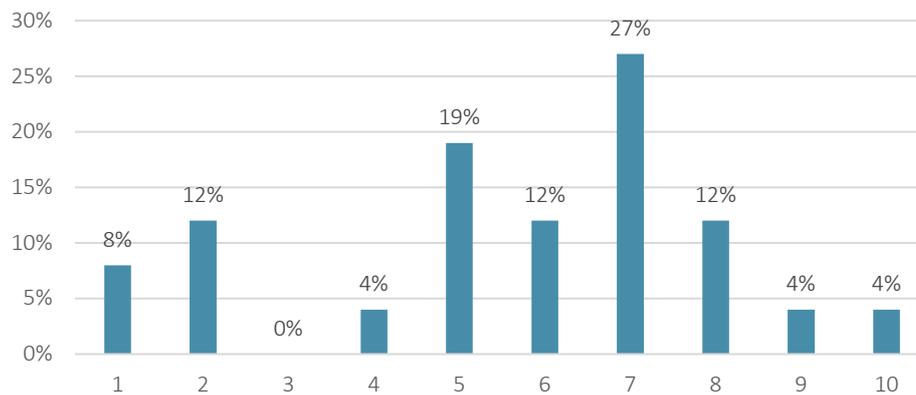
At the beginning of the conference, participants were asked a series of questions via an interactive polling tool, Slido. The first question asked participants how they would rate their understanding of the challenges NGOs

Breakdown of Participants by Sector



face in developing partnerships and contracts with the private sector, on a scale of 1 – 10, where 10 was the highest.

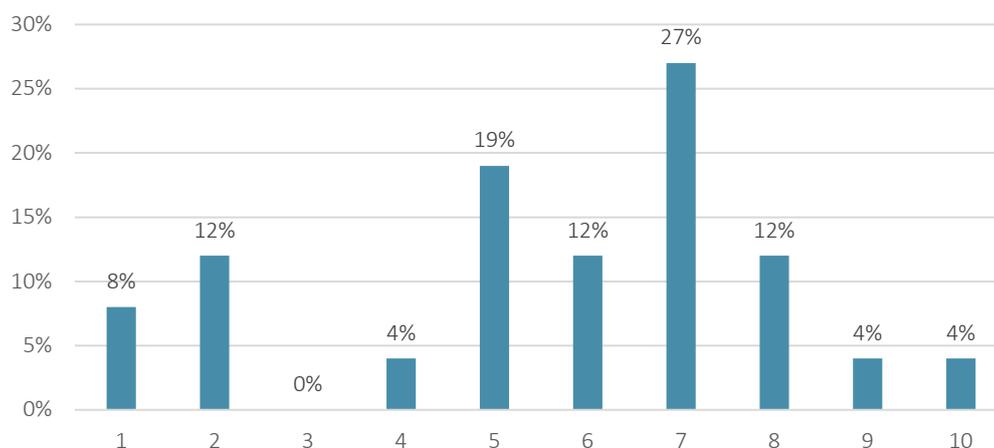
How would you rate your understanding of the challenges NGOs face in developing partnerships and contracts with the private sector?



On average, participants rated their knowledge at 6 out of 10, but with a spread across the full range of responses.

The second question reversed the first and asked participants from the perspective of private sector participants, and how they would rate their understanding of the challenges the private sector face in developing partnerships and contracts with the humanitarian sector, on a scale of 1 – 10, where 10 was the highest.

How would you rate your understanding of the challenges the private sector face in developing partnerships and contracts with the humanitarian sector?



On average participants rated their knowledge at 5.7 out of 10, perhaps reflecting the fact that the slight majority of attendees were from NGOs. These same questions would be asked again at the end of the conference to compare the results.

## CONFERENCE SPEAKERS

### **Chair: Wendy Fenton, Humanitarian Practice Network Coordinator, Overseas Development Institute**

Experience humanitarian practitioner Wendy Fenton is the Humanitarian Practice Network Coordinator at the Overseas Development Institute. Wendy has over 25 years of operational, management and advisory experience in humanitarian and development programming across a wide range of sectors primarily in Sudan and Ethiopia.

### **Speaker 1: Darren Gill, Senior Consultant, Arup International Development Team**

Darren is a Senior Consultant in Arup's International Development team and Urban Portfolio Manager for Infrastructure and Cities for Economic Development. He has 13 years' experience working with multi-disciplinary teams in the private and non-profit sectors across a range of project types including urban upgrading, social infrastructure, post-disaster reconstruction, urban resilience and economic development.

### **Speaker 2: Tim Forster, Regional WASH Advisor, Middle East & Commonwealth Independent States, Oxfam**

Tim Forster is a water and sanitation specialist with over 20 years of experience in the humanitarian sector. Currently acting as the Technical Engineering Advisor and Sustainability Lead for Oxfam Tim has broad experience of working alongside private sector engineering firms in design and construction of large-scale water and sanitation facilities.

### **Speaker 3: Angela Khudonazarova, Associate Engineer and Bid Manager, WSP**

Angela Khudonazarova is an Associate Engineer and Bid Manager with WSP. She is a RedR member and has over 24 years' experience working in the humanitarian, development and private sector.

### **Speaker 4: John Heelham, WASH Engineering Advisor, Concern Worldwide**

John Heelham is a WASH expert focussing on WASH infrastructure works. He is currently a WASH Engineering Advisor for Concern Worldwide.

## OPENING ADDRESS – WENDY FENTON, OVERSEAS DEVELOPMENT INSTITUTE

Wendy Fenton – the Humanitarian Practice Network Coordinator and Acting Head of the Humanitarian Policy Group with ODI, and an Honorary Vice President of RedR UK - welcomed participants to the conference. She noted the increase in private sector and humanitarian organisations working together but noted that partnerships between the two need to improve, both formally and informally, and that both sectors need to find ways to enhance, not limit, collaborations. She expressed a wish that the conference would support the development of more trust and transparency between humanitarian and private sector organisations to allow partnerships to be more functional and flexible, and therefore, to better address the needs of those in urban crises.

## SPEAKER ONE – DARREN GILL, ARUP: INTELLECTUAL PROPERTY, LIABILITY AND DUTY OF CARE

Darren Gill – a contract advisor with Arup with eight years of humanitarian experience - began the conference with a talk on three issues that regularly become stumbling blocks for effective humanitarian and private sector collaboration; those of intellectual property, liability and duty of care. He began his talk focusing on the different types of liability: Employer liability, which is concerned mainly with injury and disease caused at work; Public liability, which is concerned more with property damage and site injury, noting that this type of liability is a bigger concern for NGOs who often have fairly open construction sites; And finally, professional liability which is related to financial losses as a result of professional negligence, noting that this one is often the bigger concern for private sector organisations.

In terms of duty and care, Gill noted the challenge that individuals working with private sector organisations are usually staff, and not independent contractors. Most of these people do not have experiences in humanitarian contexts, and so to have a partnership with an NGO who can guide staff through these contexts safely is a huge positive for collaboration. Likewise, if undertaking a project with an NGO partner in a country where the private sector organisation does not already have presence, the security, hospitality and transportation arrangements of NGOs can enable private sector engineers to experience the field reality without higher levels of private sector investment.

Regarding Intellectual Property (IP), Gill noted that this aspect often causes confusion in NGO and private sector partnerships and is becoming an increasing concern for both parties. For the private sector, IP is their main trading tool; if IP is not owned by them, they have less to offer in competitive markets where innovation is key. Conversely, NGOs tend to have a more open approach to IP, wanting as many as possible to benefit from new approaches and information. This tension needs to be carefully managed and made explicit in partnership agreements and contracts from the start.

### Case Study: Getting Intellectual Property Right



*Credit:Prevention.net*

Gill described the example of a structural integrity and damage assessment tool developed mainly by private companies in Nepal following the 2015 earthquake. An innovative app was developed that engineers could use to undertake structural analysis. Whilst the IP was created by a variety of these private companies, making it hard to utilise again, the tool *has* since been used. It has also informed various similar apps, including an assessment of all buildings in the damage affected areas, and a national rollout is under consideration. This would have been significantly easier, however, if IP had been more robustly considered up front. Such needs to be balanced in a post disaster emergency setting where urgency is often more important than IP.

## SPEAKER TWO: TIM FORSTER, OXFAM, LESSONS AND EXPERIENCES FROM PUBLIC-PRIVATE PARTNERSHIPS

### Case Study: Successful Humanitarian-Private Partnership, Oxfam and Arup



*Credit: UNHCR*

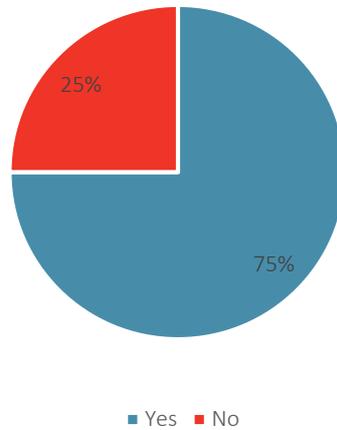
Oxfam has a formal partnership with Arup. They jointly developed a framework agreement which sets out the responsibilities of each partner, and is also a legal document that includes liability aspects and IP. The agreement is based on specific 'project orders' – each has its own terms of reference and is fully costed out before work begins. The agreement works on flexible funding mechanisms: Oxfam or Arup individuals, co-financing or other donor funds. This arrangement allows both parties to have discreet projects, and a flexible arrangement to propose ideas and jointly decide the best way forward. An example of this agreement in action is a recent evaluation of faecal sludge management systems in Cox Bazar, where 8 different treatment options were being utilised. In partnership with Arup, Oxfam evaluated each option against 9 different technical criteria. This was essential to improve treatment going forward, and was unique as these kinds of evaluations are not routinely done in humanitarian responses.

Tim Forster – a technical engineering advisor with a focus on sustainability for Oxfam – talked about his and Oxfam's experience of private sector partnerships. He began by noting the range of private partnerships that Oxfam has developed, from Marks and Spencer, to Unilever, and that Oxfam has a dedicated partnerships team to manage these, linking in with relevant programmes and advisors where appropriate. Whilst some of these partnerships are focused on fundraising, or promotion, Oxfam has also developed partnerships aimed to address key issues and gaps in the WASH sector.

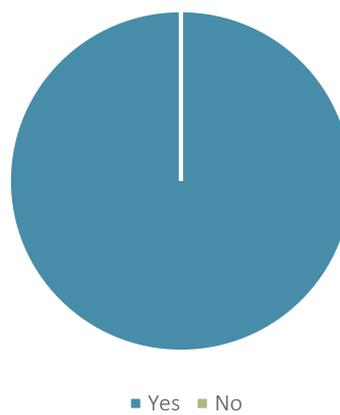
He examined the capacity gap in the WASH sector, saying that NGOs are struggling to respond to bigger humanitarian crises – such as the Rohingya crisis in Bangladesh where over 900,000 people are living in camps - and struggling to manage the infrastructure required for camps and settlements with an average life span of 20+ years. Compounding this is the difficult transition from emergency into more sustainable systems; humanitarian WASH has resources and capacity that are often limited to the acute phase of an emergency, but when emergencies become protracted, there can be weak institutional capacity to shoulder the additional workload of maintaining or improving infrastructure, particularly in fragile economies. To improve this situation, Forster recommended improved community engagement, better governance, better quality infrastructure from earlier in responses, financial modelling and taking a whole life-cycle view when it comes to costs.

These gaps highlighted the opportunities for private and humanitarian organisations to work together. The benefits are mutual for both partners: NGOs can access high quality technical expertise, specialised skill sets such as asset management, financial planning, governance and institutional development; and the private sector is able to engage with a sector outside of its core business, engage its staff and help them to develop skills and understanding around the humanitarian context, build their skills and capacity in new





And whether donors should take their share of risk management costs on a tendered project:



**SPEAKER THREE: ANGELA KHUDONAZAROVA, WSP, AN OVERVIEW OF RISK ASSESSMENT PROCESSES AND CHALLENGES IN CONTRACTS**

Angela Khudonazarova's presentation was divided into two parts. The first looked at the risk assessment process from the perspective of private sector organisations and covered the general processes for all kinds of collaborative agreements such as grants, services, works, contracts etc. Within the private sector, the process of risk assessment scrutinises agreements for the level of risk associated with them, and how to manage and mitigate them. Aspects that might affect the risk rating of a project can include client familiarity and due diligence, the project location, value and the health and safety risk associated with the type of work (for example working at height or confined spaces). Risks also increase when there are multiple resources and specialist disciplines required, or the project requires the engagement of multiple offices of the organisation. Where subcontracting is required, risks again increase around whether suppliers are

approved, whether these suppliers themselves can manage environmental risks and liability appropriately. Financial aspects can also trigger higher risk ratings; milestone payments, time bound grants and foreign exchange payments are all likely to incur higher levels of risk in the private sector, despite being common in the humanitarian sector.

When developing terms and conditions, both parties need a clear understanding of risks to be able to manage, mitigate and reduce them; a high-risk project does not automatically mean the project will not proceed as long as there are measures in place to mitigate these risks. As discussed by Darren Gill, liability levels need to be discussed and agreed.

Whilst international work is the mainstay of many humanitarian NGOs, international projects often trigger additional risk assessment requirements for private sector organisations. This might include country profiling using resources such as the Foreign and Commonwealth Office, Transparency International, Control Risks Group and International SOS. Whilst some risks apply to whole countries – for example Afghanistan, Syria, Yemen or Libya – others may apply to different areas within a country, for example work in Lagos, Nigeria may be considered medium risk, whereas work in Borno State in the same country would be considered extremely high risk. Unlike NGOs which often prepare and train staff for working and delivering projects in high risk environments, for the private sector, dealing with such risks includes costing them out and ensuring that they are covered within the project fee.

The second part of Khudonazarova's presentation looked specifically at the challenges for contract management within the humanitarian sector. She touched on more general challenges – such as issues around technical excellence and available data, transparency, corruption and fraud in humanitarian contexts and fragile settings – before sharing two more specific examples from the Norwegian Refugee Council (NRC; see the case study box for more details), and from a Bond report into tendering and contract management with DFID. This report found that around three-quarters of all contracts between NGOs, private sector and DFID had been subject to amendment at least three times, a costly and time-consuming process that could be avoided with proper contract management at the beginning of agreements. She noted that

### **Case Study: Norwegian Refugee Council and Boston Consulting – The Impact of Donor Conditionality**



*Credit: NRC*

This study, conducted by Boston Consulting Group, examined the impact of donor conditionality on the effectiveness of humanitarian response. It found that obligations to donors' conditions often meant that responses were more costly, complicated or inefficient and that they impacted an NGOs ability to deliver. NGOs are expected to deliver in high risk contexts – war, corruption etc. – and yet they are obliged to take most of the financial risk. One example cited in the findings was of a warehouse being bombed and looted; in this case, donors said that they would not pay for the items, claiming it as aid diversion since they did not reach their intended beneficiaries. This complete transfer of financial risk to implementers means that sometimes, they will be obligated to pay twice. This can result in the NGO becoming more risk averse and therefore not meeting the most critical need. Khudonazarova noted that such inefficiencies and transfer of risk would not be allowed in private sector contracts.

whereas private sector actors usually have set contract templates, the same do not often exist in humanitarian organisations.

Khudonazarova summarised by noting the changing ecosystem of the humanitarian sector; private companies are becoming more involved and donors are embracing more of a tendering and competitive bid process; NGOs need systems and capacities that allow them to compete in this developing ecosystem which could come from partnerships with private organisations that have contract management expertise, wider portfolios and pools of consultants available. She noted that there is “opportunity for strategic partnerships to extend the reach of humanitarian actors”.

**SPEAKER FOUR: JOHN HEELHAM, CONCERN WORLDWIDE, CHALLENGES MANAGING CONSTRUCTION CONTRACTS AND SUPPORT FROM THE PRIVATE SECTOR**

John Heelham’s presentation focused on the challenges of large construction contracts in the NGO sector. Heelham works for Concern Worldwide, an organisation working in 25 countries with an average annual spend of \$15 million on construction annually across different humanitarian technical sectors. In terms of

**Case Study: Standardised Contracts for the WASH Sector?**



*Credit: UNICEF*

IHIP are currently working with the Global WASH Cluster to harmonise private sector and humanitarian sector approaches to contract design and management, supporting the creation of a harmonised construction contract. This collaboration is trying to work with WASH Sector to standardise contracts across actors; Heelham said, in a large-scale emergency, ‘if we all go in with different contracts, and work with same contractors, we will cause confusion.’

the challenges that Concern face, Heelham noted that often NGOs have a range of projects, from small rainwater harvesting systems to waste water treatment plants. Moreover, NGOs are often multisectoral, and many staff don’t understand construction contracts, and wouldn’t necessarily need to as part of their day to day role. Other challenges include the range of working languages and formats required for contracts. In the volatile economy of a country recovering from or still in crisis, changes in prices, disputes when things go wrong, variations and changes on site, shifting regulations all prove challenging. Echoing the sentiments from Khudonazarova’s presentation, he cited the challenge of donor requirements, where decisions around design change or cost can often not be taken by an engineer on site but require discussions at higher levels of grant management to make necessary changes. Other ways in which humanitarian contracts differ to those in the private sector are the required retention periods; a set period where funds are set aside in case of any issues. The standard for the private sector is often one year, however in the humanitarian funding context, donor contracts often don’t allow for a long retention period. Lastly, he noted the humanitarian context often requires remote monitoring for security or access issues. This can lead to poor quality infrastructure when instructions are not able to be explained on site, leading to facilities that are dangerous or not fit for purpose. Fixing issues can mean higher construction

costs, meaning less work can be completed for the same amount of money, and if facilities don't meet the needs of users, there is the risk that they will seek other, unsafe coping mechanisms.

Heelham noted that Concern has tried to harmonise their contracting processes drawing on experience from a range of different sources. One is a suite of contract templates created by the International Federation of Consulting Engineers (FIDIC). There are two main types, a comprehensive contract template, known as the Red Book, and a simplified version for shorter contracts, known as the Green Book. Both are available in a range of languages. Another is through private engineering firm Mott MacDonald who recommended the New Engineering Contract (NEC). Similar to FIDIC, NECs are a suite of contract tools designed to facilitate sound project management principles and legal relationships. The core principles of NECs are flexibility, clarity, simplicity and to act as a stimulus to good management. The language used is simple and has less jargon than FIDIC contracts, however, they are only available in English. Another is collaboration with the International Humanitarian Infrastructure Platform (IHIP), which Heelham came about through a connection on KnowledgePoint. IHIP advocate for a modified FIDIC contract, which harmonises private sector and humanitarian approaches.

Heelham finished his presentation by asking whether standardised contracts are in fact suitable, or whether more could be made of private organisation support, particularly when these are based in the same country of operation. He further noted that humanitarian organisations could learn from private sector organisations when they themselves deal with contracting issues in fragile contexts.

## INTERACTIVE DISCUSSIONS

The conference moved on to a series of interactive discussions with each speaker where participants had opportunity to ask any questions and discuss the responses in more detail in smaller groups. A summary of the discussions can be found below:

DISCUSSION ONE:  
DARREN GILL - ARUP

How can we talk about intellectual property so that it makes sense and doesn't get in the way?

*"When looking at a contract for a project, there are two types of IP:*

- **Background IP:** *This is everything that an organisation has already developed in their history. This could be building designs, databases, contracts etc. They must remain the IP of the organisation; they don't want to have to pay to use it or be banned from using it.*
- **Foreground IP:** *This is everything developed in the course of this new project. For a project with an NGO, it is not just the private sector organisations. Anything smart created should be shared to further humanitarian ends.*

*A big issue is awareness. Organisations will sign contracts they don't read and/or don't understand. Normally they don't want to restrict IP, but they don't often realise what they are signing. This goes for donors, private sector and NGOs. Enforcement is also a huge issue; Who is going to enforce it? There's therefore little incentive*

*to make a change and get it right. However, there's often feelings that an organisation – probably an NGO – will get it very wrong and get 'burnt' (for example, getting embroiled in legal action).*

*It varies between organisations, but in Arup's case, they may maintain ownership of foreground IP but generally promote broad user licenses for future use by others in their humanitarian work. If they thought that there would be something that they did want to keep, they'd ensure it was included during pre-contract discussions."*

*"Partnerships shouldn't necessarily need legal teams; the process should be kept straight forward. However, training is needed so that the conversation can be had between contract specialists, but not lawyers. People who can translate what they want to happen into a contract clause, not legal speak which makes it more complex."*

What happens when even larger NGOs don't have the legal teams who understand this or have the capacity to check clauses around IP?

DISCUSSION TWO:  
TIM FORSTER - OXFAM

How can partnerships with the private sector be managed and contribute to humanitarian interventions?

*"It's important to manage any relationships that are developed. Previously, we had been more adhoc, with agreements happening and disappearing. If you don't manage these relationships, they tend to die; if you look after them and nurture them, things will happen."*

*The idea of more formal agreements came from members of our development team, who encouraged us to take a more long-term view of humanitarian crises."*

*"Our experience so far has been that times are changing, and we can't field as many people as we used to be able to. There seems to be less interest from younger people to get involved in humanitarianism. [responding to disagreement from participants] It might be a bit of a chicken and egg situation; younger engineers may feel like they need more private sector experience to be able to contribute, or that if they have no humanitarian experience they won't be considered, but if they don't go for humanitarian deployments, they won't get the experience they – and NGOs – are looking for. There is willingness from NGOs to grow something more long term; Linking with universities and private sector graduate programmes, ways to get early career experience that can help further down the line."*

How can young engineers working with large private sector firms become more involved in humanitarian work?

What are the main challenges of working with the private sector?

*"A main challenge is different ways of working; take Bangladesh for example, it's a large emergency with lots of opportunities for private sector engagement. But Oxfam is one of many WASH actors and getting a coherent response in a major emergency is very difficult because of locations, donor dominance, fragmentation, it's hard to get agreement on one way forward; it's surprising political just within the humanitarian sector itself."*

*“From the Private sector perspective, they are essentially profit driven, and in the initial phase of response, there’s no profit to be made. Mostly private sector organisations come in at the recovery and resilience phase, but this needs to be thought about from the beginning, when many private sector organisations would be reticent to engage. We’ve talked a lot in this group about a roster of people, but no private organisation can afford a ‘standing army’; the ability to respond quickly and deploy people out rapidly in a commercial environment is quite difficult, since most engineers in private organisations are not kept idle, and those with the depth of experience required at the beginning of a response, are likely to be more senior engineers who would be even harder to deploy. There is also an ethical aspect to look at as well; private sector partners do need to meet also the ethical requirements of NGOs, which can be quite stringent.*

*There is a lack of surge capacity, and for urban responses, a mismatch of skills. It’s probably not best to have emergency engineers design long term infrastructure, so different skills are needed at different points. This is where there is a role for private sector because they understand design with a longer lifespan than a humanitarian engineer. Partnerships could allow the private sector to steer and guide eager humanitarian engineers who want to develop these skills.”*

At what stages of humanitarian response is capacity most lacking, and how could partnerships support that?

At what stages of humanitarian response is capacity most lacking, and how could partnerships support that?

In terms of sustainability, what kind of management models is Oxfam looking at?

In terms of sustainability, what kind of management models is Oxfam looking at?

*“There’s not really a lot of information out there about good management models for long term sustainability of WASH systems. The most common model is a rolling contract with an NGO. For example, in refugee camps in Tanzania, an Oxfam built water system was handed over between different NGOs to continue to run it. In Bangladesh, the registered refugee camps also had water systems installed by Oxfam and eventually run by the Office of the Refugee Relief and Repatriation Commissioner (RRRC), but the system was not well controlled and there was no determining whether people received equal quantities. There are no private sector operators in refugee settings, and we very rarely see government taking over the management; there is more of a reliance on who can do it for cheapest. There are some examples where countries have tried a utilities approach, but it is very complicated to operate. Eventually most systems tend to rely on a donor to continue running.”*

*operators in refugee settings, and we very rarely see government taking over the management; there is more of a reliance on who can do it for cheapest. There are some examples where countries have tried a utilities approach, but it is very complicated to operate. Eventually most systems tend to rely on a donor to continue running.”*

DISCUSSION THREE:  
ANGELA KHUDONAZAROVA

What are the main contract challenges you have faced when working on a humanitarian project?

*“One example from my own experience would be winning the lead for a DFID funded consortium, but there hadn’t been a consideration of taxation for a private sector partner. This meant that the private sector partner had to be removed from the consortium and involved as a third party instead. There is a lack of understanding amongst humanitarian donors about how to move from grants to competitive tenders. For example, milestone payments; the private sector would never want to*

*agree to these in a competitive tender, but if they don't, they would lose potential contracts. There are challenges also with language and ensuring a common understanding. The private sector has people who will work on this but of course, that comes with a cost, which most humanitarian donors are not interested to pay. NGOs need to find a way to package these kinds of costs in a way that is acceptable to donors who want to see as much money as possible go to beneficiaries. NGOs shoulder an enormous amount of reputational risk in these cases; quite often, it's not that the contract wasn't good enough, or well enough understood from the NGOs side, it's that there is a power imbalance; if you are the only organisation that can do the work because you have humanitarian status, and donors are the only ones with the money, there is little choice in terms of who you work with, unlike in the private sector.*

*A lot of the time, large contracts can be a learning process for NGOs; in the private sector we have large teams who work on putting bids together, but you often don't find these kinds of teams in NGOs. The discussion around standard contracts is interesting; donors need to know that examples already exist (in the form of NECs and FIDIC) and so they don't need to invent new ones."*

DISCUSSION FOUR:  
JOHN HEELHAM:  
CONCERN WORLDWIDE

### How can the private sector better support humanitarian agencies?

*"The private sector can't provide support in the same way as humanitarian organisations in first 8 weeks or immediately after a disaster; there is no commercial activity or interest at this stage, and so we have to distinguish the response phases, and when private sector organisations can actually provide support to humanitarian sector. Platforms like the Urban Hub can be a good way to link humanitarian actors in with private sector organisations. The scale of the need also determines the type of support required; huge contracts with huge liabilities are a lot harder for the private sector to support, and funding restrictions from NGOs might present a barrier as contract work can't always be pro bono. When it comes to contracts, the same issues and challenges exist for the private sector as with humanitarian agencies in managing and implementing contracts and partnerships. They're not 'new' challenges in this respect, but often they are viewed through different lenses."*

*"There are templates to start from, with headings for contracts, not necessarily pre-set wording as such, or with sections with guides to filling them in. But the actual process of making agreements is often more important than what is in the agreement itself; Does everyone understand what they are signing? That's the most important thing. Developing a relationship and understanding is important so everyone is going into the partnership from the same angle as this what lessens the likelihood and severity of disputes. Early warning systems are also important to minimise and lessen disputes down the line, for example, talking about risks **before** they happen, raising problems as soon as possible, being clear and transparent rather than waiting until a dispute becomes bigger. Really we should be looking less at dispute resolution and more at developing partnerships that ready us to transition from response phase to rehabilitation and disaster preparedness."*

Can principles or standards for partnerships be made simpler?

## PLENARY SESSION

A plenary session was added for an opportunity to review any outstanding questions received through Slido.

### Q: SHOULD THE HUMANITARIAN SECTOR AND ITS PARTNERS NOT ADOPT CREATIVE COMMONS LICENCES WIDELY FOR ITS KNOWLEDGE OUTPUTS, AS A CLEAR FRAMEWORK FOR MANAGING IP?

*From the Audience:* Creative Commons are a set of licences for IP that have range of levels of access; from everyone can use, to use only in a limited range. Could that be a useful framework for non-lawyers to understand IP better? It's already operational and seems like a good framework to use, as it governs the use of the property, but someone still owns the intellectual property.

*Darren Gill:* It's a carrot and stick type approach; the 'stick' is, 'there's the rule, stick to it', and the 'carrot' is that if you do something innovative and that supports scale up, you should share it because the reputation that comes from that is incredible, and the longer-term funding that might come from it is significant.

*From the Audience:* Creative Commons sounds like something good for donors to use; it is very easy to understand, but the issue is we are operating in an environment that is very hierarchical, where it starts at the top and cascades down. We therefore need flexibility at the top, to be able to cascade the same flexibility down. Creative Commons could be more commonly used to manage IP if NGOs were more aware of it.

*From the Audience:* It's not certain that there is one solution; it's about multiple solutions and a smorgasbord of different things to use. It could take a few NGOs to be really burnt on IP for them to start paying attention; this is something the private sector could help NGOs with.

### Q: CAN WE CONSOLIDATE ANY EXAMPLES OF CONTRACTS OR FRAMEWORK AGREEMENTS TO CREATE TEMPLATES FOR THE HUMANITARIAN SECTOR?

*From the Audience:* Where these are not confidential, could organisations like Arup and Oxfam share their examples of agreements so that we can bridge the gap in understanding for others? It would be useful to explore how to use the right legal language to solve conflicts of interest, etc.

*From the Audience:* That idea could work well nationally, but where there has been experience of this globally, these kinds of templates tend to work in a few countries but other countries don't want to use it. NGOs can look like one organisation from the outside, but often, they are lots of different component parts, all of which need to agree and buy in, which can be a challenge.

One action point that came from the plenary session was to develop a paper or a road map showing key points to consider in setting up frameworks and contracts etc. This would cover the most critical aspects to discuss and document during partnership discussions, to help NGOs be more aware from the start.

**PARTICIPANT FEEDBACK**

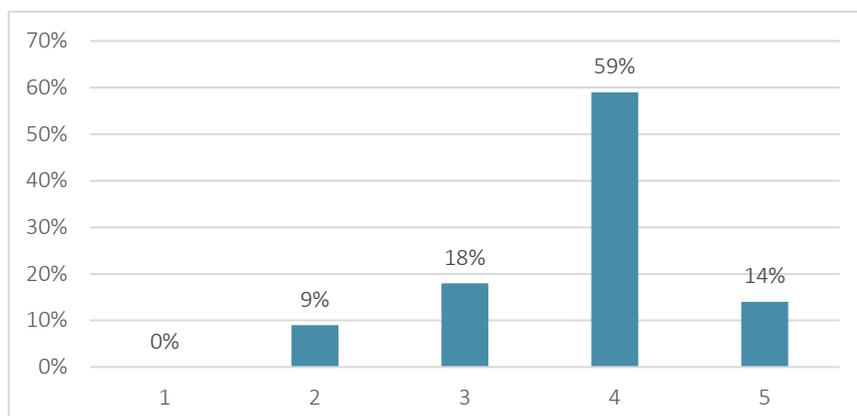
Participant feedback was gathered using Slido; participants were asked for key words that summarised their takeaways from the day:



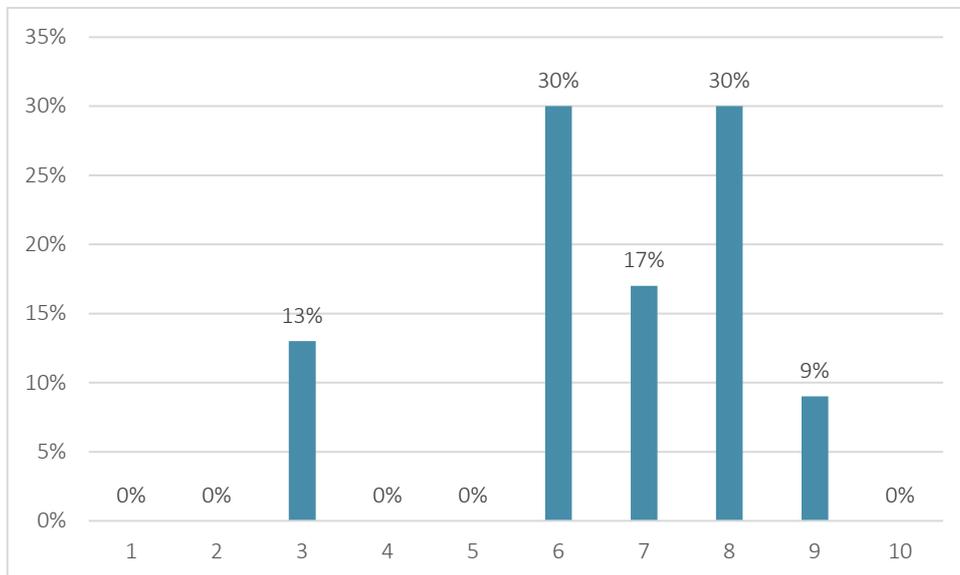
Participants were then asked for a few words about something they had learnt today that they would implement in their role going forwards:

- Involve and discuss with donors
- NGOs have the same problems with contracts on a small scale that private sector have on a larger scale; lessons can be learnt from each other
- Contracts aren't that scary
- We need to share innovation more openly
- Learn more about creative commons
- Look for the shared public good
- That we need better free or cheap legal advice on contracts
- Training for contracts is needed on both sides
- Push for organisational legal capacity
- Carefully reviewing contracts and understanding better the circumstances of NGO actors
- Understanding the structure of partner organisations
- Compromise and share
- Look at the IP clause in our contracts

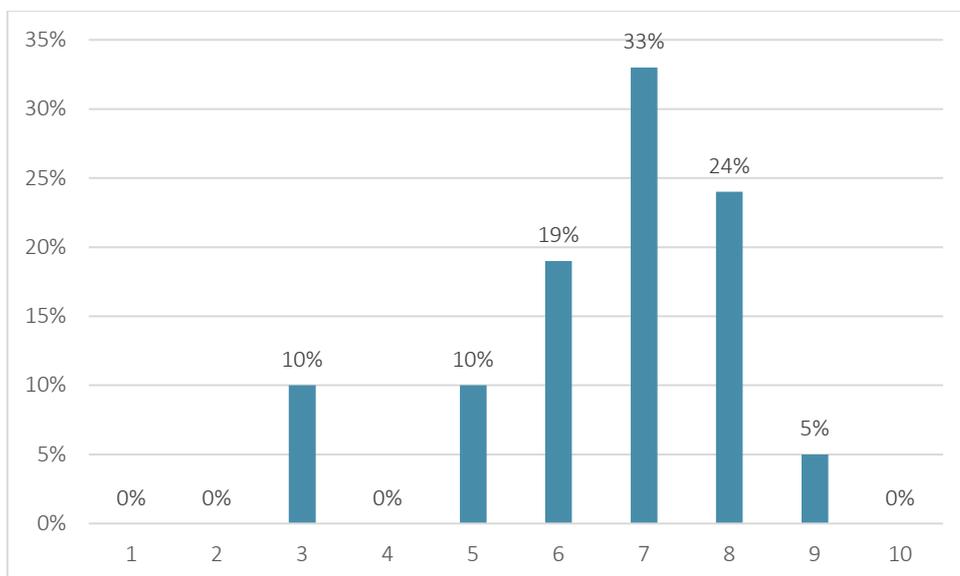
Participants were asked how well they felt the day had improved their knowledge of contracts and partnerships, rated on a scale of one to five, where five was greatly improved:



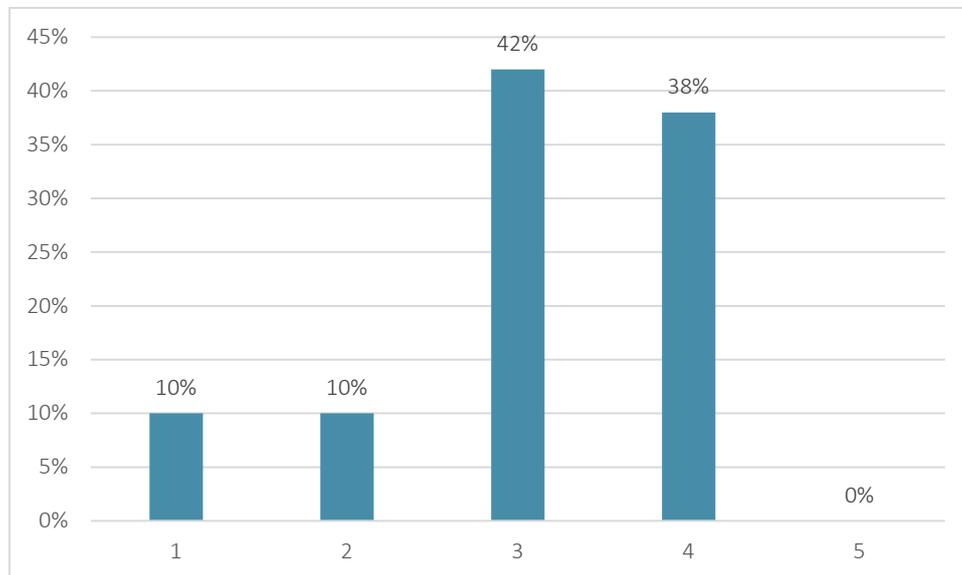
To assess whether the conference had supported development in understanding of the challenges NGOs face in developing partnerships and contracts with the private sector, the same question was asked again, rated on a scale of one to ten, where ten was the highest:



The average score was 6.7, which indicated a 0.7 increase from the start of the conference. Likewise, to assess whether the conference had supported development in understanding of the challenges the private sector face in developing partnerships and contracts with the humanitarian sector, the same question was asked again, rated on a scale of one to ten, where ten was the highest:



The average score was 6.6, which indicated a 0.9 increase from the start of the conference. Lastly, participants were asked how well they felt the day improved their understanding of the *solutions* to some of these challenges?



#### CLOSING REMARKS: WENDY FENTON

The event was closed by the chair, Wendy Fenton with thanks to all the speakers and reflection on the true purpose of the event. Fenton said, 'These events help you to look for the solutions; they are not for finding out what the solutions are but making the connections to find the solutions together.'

#### TAKING THE CONFERENCE FORWARD

The conference generated a considerable amount of interest in finding easier ways for private and humanitarian organisations to work together. Suggestions for action included developing shared templates for contracts, sharing learning of where partnership agreements have worked well, and sharing lessons learnt from where they have not. Contracting appeared to be a pressing issue for many participants, leading to the creation of a small action group interested to gather examples of different formats across agencies to create guidance on the most essential elements for NGOs and Private sector organisations to be aware of. The conference allowed an environment for connection between the two different sectors; something that RedR UK will continue to champion in their work on improving capacity in urban humanitarian responses going forward.