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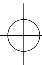

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Negotiating with Terrorists

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Abstract. Negotiating with terrorists is possible, within limits, as the articles in this issue show and explore. Limits come initially in the distinction between absolute and contingent terrorists, and then between revolutionary and conditional absolutes and between barricaders, kidnappers and hijackers in the contingent category. Revolutionary absolute are nonnegotiable adversaries, but even conditional absolutes are potentially negotiable and contingent terrorists actually seek negotiation. The official negotiator is faced with the task of giving a little in order to get the terrorist to give a lot, a particularly difficult imbalance to obtain given the highly committed and desperate nature of terrorists as they follow rational but highly unconventional tactics. Such are the challenges of negotiating with terrorists that this issue of the journal explores and elucidates.

Keywords: negotiation, terrorism, terms of trade, hostages, suicide.

Officially, the subject does not exist: we do not negotiate with terrorists. Practically, however, there are negotiations and negotiations, and terrorists and terrorists. The subject is currently topical, but also analytically challenging, occurring more frequently than it is studied. What, then, does the fact of dealing with terrorists have to do with the negotiation process? Can negotiations take place with terrorists? How does one negotiate with terrorists? These are questions that this issue of *International Negotiation* seeks to address. It does so through, firstly, four articles dealing with conceptual questions, two of them by Richard Hayes and associates and by Guy Olivier Faure, presenting a literature review, and two others by Adam Dolnik and by William Donohue, focusing on more specific analytical distinctions; secondly, through two case studies of the successful Bethlehem and the failed Moscow negotiations by Moty Cristal and by Adam Dolnik and Richard Pilch, respectively; and, thirdly, through a research note on the broad question by Bertram Spector.[1]

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Terrorism is defined by the UN Security Council (UNSCr 1373) as violent or criminal acts designed to create a state of terror in the general public and by the US Government (Department of State 2002) as premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience. One may argue a bit with the second definition around the edges (as with any other), on aspects that perhaps derive from the fact that the definition is made by a government agency; it specifically excludes state terrorism, which leaves a veil of legitimacy on state actions of the same type that are inappropriate (Pape 2003: 345). That qualification having been noted, both definitions are acceptable approximate characterizations of the subject.

All terrorists are hostage-takers and all are their own victims. The standard hostage-taking terrorist takes identifiable hostages. The suicidal terrorist holds the people around him hostage, adding to the terror itself by the fact that they never know when they will be his chosen victims; fear makes the whole population hostage to the terrorist, among which some are the victims at any specific time. But the terrorists are all their own victims. The suicider kills himself along with his victims, just as the hostage-taker has taken himself hostage: he cannot escape from the barricade, kidnap hideout or hijacked plane anymore than his captives can.

Yet the key to the analysis (meaning “taking apart”) of the subject is to draw distinctions within the broad concept.[2] This journal issue begins with a basic distinction, introduced by Hayes et al., between absolute and “traditional” terrorists, although it would be good from the start to replace the latter term by “contingent” or “instrumental,” denoting their use of terror as a use of others’ lives as exchange currency for other goals, as Faure indicates. Absolute terrorists are those whose action is non-instrumentalist, a self-contained act that is completed when it has occurred and is not a means to obtain some other goal (not to be confused of course with some broader cause). Suiciders – bombers and hijackers – are absolute terrorists, and so are beyond negotiation. They are generally even beyond dissuasion, and in this, they differ from non-terrorist suiciders, whose end is without a broader purpose and is not intended to influence behavior beyond their own.

But useful distinctions may be possible in order to better understand and deal with the phenomenon, between total (or revolutionary) and conditional absolutes. It is not only the suicidal tactics, but the unlimited cause that makes for truly absolute terrorism. When the cause is world social and political revolution, it becomes an unattainable millennial dream used to justify total indiscriminate tactics – “unlimited ends lead to unlimited means” (Crenshaw 2000). Other suiciders use the same tactics that are finite, dividable, exchangeable – aspects that will be relevant to later parts of this discussion – even

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though their act itself is as self-contained and absolute as any other suiciders'.[3]

The other side of the distinction holds greater ambiguity, replicating the ambiguity in its name. Instrumental or contingent or demonstrative terrorism covers much of the literature of the past century on negotiating with terrorists and involves mainly hostage-taking, as discussed by Faure, Dolnik, Hayes, and Donohue, and in the case studies by Cristal and by Dolnik and Pilch. The violence is therefore not definitive or absolute: it is accomplished only in part, as in the act of hostage-taking, but threatened or contingent in the rest, as in the fate promised for the hostages if the demands are not met. But some hostage-taking is no longer contingent terrorism. On one hand, airline suiciders are absolute terrorists: their goal is their own sacrifice as well as the sacrifice of their hostages, and there is no way of negotiating a compromise. On the other hand, once the hostage-taker has killed his hostage(s), he verges on the absolutist, for he has nothing more to negotiate about or with.

Contingent or even instrumental terrorism is preferable as a term to demonstrative terrorism (used by Pape 2003: 345), both because of the usual distinction between demonstrative/expressive violence (to get it off your chest) and instrumental violence (to accomplish something). "Non-absolute" terrorism seeks much more than demonstration: it seeks to exchange its victims for something – publicity, ransom, release of friends. Indeed, it is absolute terrorism, if anything, that is demonstrative, in the sense that it expresses the frustration of the suicider over the situation and his inability to change it by any other means.

Other kinds of distinctions are made within the category of terrorism that are relevant to understanding the phenomenon and its susceptibility to negotiation. Among contingent terrorists, the distinction made by Dolnik between barricade and kidnapping terrorists highlights an important difference – the sustainability and vulnerability of the situation, and beyond that the typical difference between the perpetrators-barricaders being more frequently mentally imbalanced and kidnappers either extortionists (criminals) or militants. In that typology, a third type should be added, as noted by Donohue: the non-suicidal aerial hijacker, whose situation is that of a barricader on the ground but more sustainable within limits in the air precisely because of the vulnerability of the hostages.

The distinctions among terrorists, as noted by Hayes and Faure, are also relevant but raise further questions that are particularly important in the present context. Criminals, militants (nationalists or revolutionaries), fundamentalists, and mentally unstable cases are categories that can often overlap but make a difference in regards to negotiability. The most important elision to make in these categories is between social revolutionaries and religious militants. Although the point of reference and inspiration of the latter is god-given

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revelation and of the former is political ideology, it would be wrong to ignore their more important similarities. Both revolutionaries and fundamentalists want to overthrow the given social system and build a new world in the image of their dreams, and as terrorists both are willing to kill others and die themselves to achieve their goal. Thus, the current emphasis on the fundamentalist basis of terrorism should not obscure their social revolutionary nature. Camus' *Les Justes* gives as important insights into religious as into ideological motivations.

The result is of importance in addressing the topic of this issue of the journal: negotiating with terrorists. Any attempt to negotiate with total absolute terrorists only encourages them; it achieves no other purpose (Pape 2003). They have nothing to negotiate about, they have nothing to negotiate with.[4] Indeed, it is notoriously difficult even to contact them and to talk them out of their act, while they are up in the air or even on the street heading toward their target. Since contact and communication are basic conditions of negotiation, inaccessibility is another component of absolute terrorism. Of course, even here a distinction needs to be made between the terrorists themselves (the suiciders) and their bosses or organizers. The organizers do not blow themselves up. They are not madmen and the point is gradually being understood that they are highly rational and strategic calculators (Crenshaw 1981; Horgan and Taylor 2003). But their purpose is so broad that it is unlikely to lend itself to negotiation, and indeed negotiation and the compromises involved are likely to be seen as damaging to the galvanizing purpose of the terrorist organizer in a desperate, asymmetrical situation.[5]

On the other hand, contingent terrorists are seeking to negotiate. They want to get full price for their hostages, and for the most part live hostages are better bargaining material than dead ones. Hostages are hostage capital, as Faure puts it, or bargaining chips, that is, items of no intrinsic value to the bargainer but created for the purpose of bargaining away. Contingent terrorists try to overcome their essentially weak position by appropriating a part of the other side and trying to get the best deal out of the other side's efforts to get that part back, to make itself whole again. Absolute terrorists do not want society to be whole again, they want it wounded and bleeding. To be able to do so, terrorists must believe in their own right, whether that sense of justice that counterbalances their asymmetrical power position comes from god (as in the case of fundamentalists), from ideology (as in the case of social revolutionaries), or from their belief that the world owes them this right as a result of its own basic discrimination or corruption (nationalists and criminals, respectively).

In between the two groups are the conditional absolute terrorists, who do have something to negotiate about – territory, independence, conditions – even if their suicidal tactics are absolute. Conditional absolutes are not contingent:

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they do not seek negotiation as part of their act and their tactics are not divisible into two parts, grasping hostage capital and spending it. But their demands are potentially negotiable, leaving that potentiality to be developed by the negotiating partner. Here, the distinction between agent and organizer adds to the specialty of the conditional absolute case. The agent is still likely to be totally absolute, and partial absoluteness refers only to the organizer. But the distinction suggests appropriate negotiating – or pre-negotiating – tactics. It is important to divide the terrorists, pulling the contingents and conditional absolutes away from the absolutes, which means giving the prospect of something real and attainable, as was done in the case of the IRA in Ulster, as Hayes notes.

The problem in the case of contingent terrorists is not that they are not interested in negotiating but that the world does not accept their deal. But that is merely an extreme case of a typical negotiating situation. To that situation there are two appropriate negotiating strategies: to lower their terms or to change their terms. Cristal, Dolnik, Donohue, and Faure explore the first. They draw attention to a frequently neglected link between status and outcomes, showing that low status leads to offensive tactics, position politics, and hostile bargaining that is unproductive of integrative outcomes. They bring out the "need to achieve a gradual process of creating conditions which will enable the terrorists to securely conclude the crisis [. . .] undermining the terrorists' psychological safe-zone, constructing legitimacy for the negotiated agreement and building the terrorists' independent decision making capabilities", in Cristal's words. Treatment as equals, development of the legitimacy of a solution, and expansion of options are all ways of moving the hostage-takers off position bargaining and opening the possibility of a fruitful search for mutually satisfactory solutions, only available when they can think in terms of lowered expectations and so of lowered demands.

Changing terms are dealt with in Faure's and Dolnik's accounts and in Cristal's analysis of the Bethlehem negotiations. The key to successful negotiations is to change the terrorists' terms of trade from their demands to their fate. When they see that there is no chance of their demands being met but that their future personal situation is open to discussion, innumerable details become available for negotiation. The two must be carried out in tandem, indicating that while one avenue or problem is closed for discussion, the other is open and personally more compelling.

Terrorists tend to focus on their original terms of trade – release of hostages in exchange for fulfillment of demands – and are little open to looking for reductions and alternatives, options that need to be developed if negotiations are to succeed. As in any negotiations, when the two parties become convinced that a search for a solution is legitimate and acceptable to both sides, they

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become joint searchers for a solution to a problem rather than adversaries. To entice them into this common pursuit, they need to be convinced that the other side is willing to consider their interests. "If state leaders have the political will to promote negotiation as a response to terrorism, they will need to attend to terrorists' interests, not only their actions, strategies and tactics [. . .] To overcome the no-negotiation impediment, state leaders will need to respond in a special way, seek to understand terrorist interests, translate those interests into politically acceptable terms, and respond to them appropriately", notes Spector.

These two strategies may or may not be in contradiction with each other. On one hand, one strategy helps the terrorists look for lesser forms of an outcome on terms that interest them, whereas the other helps them look for other terms. The second option also reinforces the position of the authorities as holders of the upper hand – one-up negotiators, in Donohue's terms – rather than full equals. On the other hand, both strategies depend on removing obstacles to creative negotiating, indicating the legitimacy and interest of both parties in finding a solution, and developing a range of options. At this point, the problem returns to the other side, the official negotiator who needs to lead the terrorist against his will into the give-and-take of negotiation.

There is room for a wide range of tactics; at some point, take-it-or-leave-it offers are useful whereas at other times, invitations to further refinement and creative thinking are appropriate. At some points, firmness in the subject of negotiations is in order, whereas at other times, alternatives and options can be explored. Time, as Dolnik, Hayes, and Spector emphasize, is on the side of the negotiator, a point that the terrorist may seek to reverse by either killing or releasing some of his hostages. Once relations with terrorists get into the bargaining mode, however, they are open to the same shifts and requirements of tactics as any other negotiation.

All this is not to suggest either that terrorists' demands are to be considered legitimate in principle and only require some tailoring around the edges, or that concessions do not encourage contingent as well as absolute terrorists. The answer to the question of whether negotiations can be conducted with terrorists is that contingent terrorists in fact are looking for negotiations and that even conditional absolute have something negotiable in mind; but the answer to the next question of how much of their demands can be considered acceptable depends on their content and on the importance of freeing the hostages. This latter consideration again relates in turn to the danger of encouragement. Here, it is not the matter of negotiation per se that encourages contingent terrorism but rather the degree of their demands that they are able to achieve by negotiation. If negotiating leads the terrorist to a purely symbolic result – a

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radio broadcast or a newspaper ad presenting his position – he is more likely to decide that the result is not worth the effort, rather than to feel encouraged to do it again. Or if negotiating leads the terrorist to a bargain for his escape and totally neglect his original demands, he is not likely to feel encouraged to make another try. Thus, in the case of contingent terror, any encouragement would come from the results but not from the act of negotiating itself.

Similarly, the negotiator needs to offer the conditional absolute terrorist concessions to his demands as the payment for his abandonment of his violent terrorism and not as concessions to the pressure of the terrorism itself. If the negotiator should make concessions to the terrorist as part of the negotiation process, so must the terrorist, and the absolute terrorist organizer does have something to offer as payment: his choice of terrorist tactics. Thus, the answer of the negotiator to his public's fears of appeasing and legitimizing terrorism lies in the deal he is able to extract from the terrorist and in his need to focus on the fate of the victims, as Cristal, Faure, Hayes, and Spector show.

Negotiating with terrorists is possible, within limits, as these articles show and explore. Limits come initially in the distinction between absolute and contingent terrorists, and then within these categories in the restrictions on strategies open to the terrorists' negotiating adversaries. Basically, the official negotiator is faced with the task of giving a little in order to get the terrorist to give a lot, a particularly difficult imbalance to obtain given the highly committed and desperate nature of terrorists as they follow rational but highly unconventional tactics. Such are the challenges of negotiating with terrorist that this special issue of *International Negotiation* explores and elucidates.

Notes

1. Undated references refer to articles in this issue of *International Negotiation* (vol. 8, issue 3, 2003).
2. Cf. Stedman's (2000) analysis of "spoilers" by breaking the concept down into several types.
3. Pape (2003) lumps together negotiable and nonnegotiable goals, which is a mistake; see Spector below on the role of goals. Representativity seems to be used by the European Commission for the Prevention of Torture as another distinction, but it is unoperationable; see Palma (2003).
4. Dolnik's suggestion that absolutes might be persuaded to give up their hostages since they had already made their splash, and then to seek an "honorable" death in fighting the police, seems a bit too calculating to be a real strategy.
5. The botched bombings in Casablanca in May 2003 bring out a new weakness in current terrorism, in highlighting the gap between the rational, skilled, dedicated organizers and the less sophisticated and less committed agents, who in some cases not only carried out their tasks badly but in others got cold feet and ran away. See also Atran 2003.

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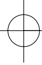

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