

The Paradoxes of Negotiating with Terrorist and Insurgent Organisations

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Summary

Negotiations are neither as straightforward nor indeed as desirable a means of conflict resolution as they may seem. This article discusses three paradoxical aspects of negotiations between states and terrorist or insurgent organisations. First, negotiations may be used by the warring parties to gain time to recuperate or to prepare for a next offensive. Second, negotiations can cause splits to occur in the parties conducting them, promoting more and worse violence by hardliners. Finally, it has been demonstrated that successfully negotiated settlements are often brittle and frequently lead to a resumption of violence. In fact, military victories may offer better prospects for a lasting and stable peace.

Introduction

Since the early 1990s the majority of armed conflicts have been ended through dialogue, negotiation and compromise. This stands in stark contrast to the dominance of military victories as conflict resolvers before that time. While this change may indeed be welcomed, negotiation is not as straightforward, or indeed as desirable, a means of terminating conflict as it might seem. In fact, dialogue between warring parties often does not directly bring peace closer, and negotiated settlements have proven less stable and less durable than military victories. This article will expose some of the paradoxes of

negotiation and by doing so contribute to a more nuanced understanding of the efficacy of this measure as an approach to counterterrorism and counterinsurgency.

The literature on negotiation as a means of ending conflict allows for the identification of three major paradoxes. First, negotiations are not necessarily initiated to end an armed conflict, but may be used by one or more parties to formalise a stalemate, to regroup before the continuation of hostilities, or to recuperate from past exertions. The many peace agreements in the conflict in the Democratic Republic of the Congo, which have been broken time and again, illustrate this point.¹

Second, once negotiations have gotten underway, splits can occur in the parties conducting them, promoting more and worse violence by hardliners who oppose any kind of compromise. The suicide bombings carried out by Hamas militants during the 1990s Israeli–Palestinian peace process provide a striking example of this problem. As the same conflict illustrates, however, spoilers need not be violent in nature; the ongoing expansion of Israeli settlement construction on the West Bank also proved a key obstacle to achieving a lasting political compromise.²

Successful negotiations, finally, do not necessarily lead to the resolution of conflict. It has been demonstrated that negotiated settlements are often brittle and frequently lead to a resumption of violence. In particular, compromise in states in which political power is defined in zero-sum terms, tends to lead to new rounds of fighting. When shifts in the power balance occur, actors may resume the violence in order to improve the terms of the previous settlement, as illustrated by the 30-year war between the warlords and tribes in Afghanistan.

The paradoxes outlined here will be discussed in more detail below to gain a fuller understanding of the role negotiations can play as a means of conflict resolution. These three dilemmas will be assessed from the perspective of a (Western) state facing an irregular opponent in a domestic or international setting. The first paradox, negotiations used as cover for darker motives, will be investigated through an analysis of the possible reasons for engaging in dialogue with terrorist and insurgent groups. The second paradox, that peace processes can give rise to more violence in the form of saboteurs, necessitates a closer look at the course of peace talks. Finally, the limited stability of negotiated settlements will be addressed by looking at the possible outcomes of dialogue with

terrorists and insurgents and the position of this measure within the broader context of counterterrorism policies. The general literature on negotiation, as well as specialist works on the functions of dialogue with terrorist groups, forms the foundations on which this article is built.

The First Paradox: Negotiations Can Mask Violent Motives

A government may choose to negotiate with terrorists in order to find a mediated way out of a conflict, to postpone an imminent defeat, or to force a way out of what I. William Zartman calls a 'mutually hurting stalemate'.³ Because the majority of counterterrorism or counterinsurgency struggles are asymmetric in nature, favouring the state and its security forces, most governments put off negotiations until one of the latter two scenarios has asserted itself. Another reason why most states are initially inclined to seek the destruction of their irregular opponents is the damage that negotiations could do to their domestic and international legitimacy. Even the possibility of dialogue with groups that use violence against civilians, and undermine the state's monopoly on force, can be highly controversial. It is for this reason that most states claim they 'don't negotiate with terrorists', even if secret contacts are maintained despite the fierce rhetoric.⁴

Negotiations are often actively sought by terrorists because these processes can drastically improve such organisations' legitimacy and popular standing. Talks appear to legitimise the aims and strength, if not the methods, of terrorist groups, thus elevating their status from violent criminals to potent political activists. Because the power asymmetry between government and militants is at its largest at the beginning of a conflict, terrorists and insurgents are often inclined to seek early access to the negotiation table in order to guarantee their survival. Yet it is precisely because the power imbalance initially favours the government that negotiations seldom occur at this stage. If a rebel group manages to survive beyond a conflict's initial stages, its willingness to negotiate may decline. In the face of growing strength vis-a-vis the government, irregular opponents are more often inclined to press their advantage and aim for the eventual defeat of the government forces, which would allow them to dictate the terms of any post-conflict agreement.⁵

Thus, as a terrorism or insurgency-related conflict progresses beyond its initial stages, the willingness of the weaker party to engage in dialogue may decrease. At the same time, the inability to inflict an early defeat on the militants opposing it may very well make the state more inclined to opt for a negotiated settlement. This could be especially relevant to democratic societies, where the costs of war can mobilise citizens to demand a quick end to the hostilities. Only if the irregular forces fail to translate their growing strength into a definitive victory over the government, can a situation take shape in which both sides will see more benefits in talking than in continuing to press for the military advantage. That peace processes can arise out of such ‘mutually hurting stalemates’ is illustrated by the examples of Northern Ireland and Israel, where peace talks followed decades of violence during which neither side managed to attain a definitive advantage.⁶

As the recent example of Pakistan shows, governments negotiating from a position of weakness run significant risks. Since 2004, Pakistan has signed several peace agreements with Islamic militants who operate in the border region with Afghanistan. The 2004 Shakai Accord assigned control of parts of border region of Waziristan, in the country’s northwest, to the insurgents. After a military setback, Pakistan agreed to expand the territory under the Taliban’s control in 2006. Three years later, in February 2009, another round of negotiations led to Pakistan announcing a truce with the Taliban in the Swat valley, in the northeast of the country and just an hour’s drive from the capital. The Taliban quickly took advantage of this to tighten their grip on the area.

In general these negotiated settlements are viewed with scepticism; ‘[t]hese peace deals are often surrenders masquerading as calculated decisions, and their main effect has been to allow extremists to consolidate their control and push for greater gains. Peace agreements in North and South Waziristan (. . .) have increased the legitimacy and authority of Pakistani Taliban leaders such as Beitullah Mensud, and have resulted in increased attacks across the border in Afghanistan’.⁷

Indeed, later in 2009 the Pakistani military finally acted to counter the widening of Taliban influence that resulted from the agreements on Swat. They attempted to clear the Taliban from the Swat Valley region by force.

The Pakistani state's recent oscillation between accommodation and more coercive methods thus echoes the British colonial struggle to control these border regions, and their experimentation with different blends of coercion and talking, as explored in Beattie and Tripodi's papers earlier in this special edition. Beattie and Tripodi also found that the tribes of Waziristan viewed negotiation as just another device for maximising advantage, rather than as a route to lasting peace.

Although negotiations are ostensibly intended as non-violent ways to resolve conflicts, this example shows that they can also be used as cover for other aims. This paradox appears to come into play during the 'middle stages' of a conflict in particular, when the government has proven itself unable to quickly crush its irregular opponents. In turn, the terrorists' growing strength and confidence makes them less inclined to commit to an actual peace process, preferring instead to subversively use peace agreements to further expand their power. Terrorists and insurgents can decide to negotiate in order to conceal their true intentions, to gain enough time to recover from past exertions, to prepare for an upcoming attack, or to mask a temporary weakness. Several examples from Cyprus, Spain, and Northern Ireland can illustrate this aspect of negotiations with terrorist organisations.

In March 1957 EOKA, a Greek-Cypriot terrorist organisation fighting against the British occupation of the island, was on the verge of defeat. The ceasefire that was then agreed upon thus came as a blessing, as the ensuing year-long lull in the fighting allowed the organisation to regroup and regain its strength. When the ceasefire ended, a reinvigorated and strengthened EOKA took up the fight with more ideological fanaticism than before.⁸

Paul Wilkinson points to a similar occurrence in the Northern Ireland conflict. A ceasefire established between the British government and the Irish Republican Army (IRA) in 1975 was used by the terrorists to mask their weakness. On the verge of defeat, the IRA offered to suspend hostilities in order to gain enough time to recuperate. The offer to negotiate was thus not motivated by a real wish to come to a non-violent settlement, but was instead based on the dictates of survival. According to Caroline Kennedy-Pipe, a similar situation occurred in July 1972 when the IRA used a short ceasefire to regroup in preparation for the next round of hostilities.⁹

A third example of negotiations being used to conceal ulterior motives concerns the Basque separatist movement Euskadi Ta Askatasuna/Basque Homeland and Freedom (ETA). In 1998, this terrorist group announced a ceasefire, apparently as a conciliatory gesture towards the Spanish government. In reality this temporary end to the violence served two other purposes. First, ETA hoped to regain some of the popularity it had lost after murdering a popular young municipal official. Second, the organisation used the breathing space gained by the ceasefire to procure new armaments and regroup in preparation for a new campaign of violence. Once again there was no intention to use negotiations as a way to conclusively resolve the conflict.¹⁰

The duplicitous use of negotiations is not geographically limited to Europe. The Tamil Tigers of Sri Lanka repeatedly abused ceasefires and negotiation processes to regroup, rearm and prepare for renewed offensives against government forces. Peter Neumann provides an example from South America, when he describes the negotiations between the Fuerzas Armadas Revolucionarias de Colombia/Revolutionary Armed Forces of Colombia (FARC) and the Colombian government that took place between 1998 and 2002. Anxious to make the most of what Neumann has dubbed a ‘strategic juncture’, a point at which terrorists begin to question whether violence is still the best tool to achieve their aims, the Colombian government agreed to several far-reaching concessions. These were consequently abused by the FARC to strengthen the organisation’s shadow government. Neumann believes that this example shows the dangers of negotiating before a permanent ceasefire has been established.¹¹

The dilemma of whether or not opponents can be trusted to truly commit to a negotiation process without trying to subvert it for their own aims was, when this article was completed, especially relevant to the then-existing situation in Afghanistan. From 2009 onwards, the opinions of various commentators and experts had diverged on whether or not engaging in dialogue with the Taliban was a feasible way of bringing the insurgency to a satisfactory conclusion. At the January 2010 Afghanistan Conference in London, the consensus was that the current military stalemate and declining international support for the NATO mission necessitated bringing the warring parties to the negotiating table.¹²

Similarly, Sultan Barakat and Steven Zyck argued in 2010 that the time for negotiations was at hand.¹³ These authors believe that by amalgamating a variety of insurgent groups, the Taliban movement had grown in size, but had also suffered decreased internal cohesion. This development had given rise to opportunities for exploiting the internal rifts by engaging in negotiations. Incidentally, such a strategy was also advocated by Michael Semple, the author of a 2009 monograph on the possibilities of reconciliation in Afghanistan.¹⁴

As of early 2011, authors such as David Kilcullen, Prakhar Sharma and Gianluca Serra were less positive about the possibilities for negotiations.¹⁵ They were arguing that the fractured nature of the Taliban could make it harder, not easier, to come to a negotiated settlement, because there is not one central authority to engage in dialogue with. The decentralised nature of the insurgency also raised the risks of vicious power struggles which might affect the wider Afghan society, and increased the probability that some parties would use violence to derail any negotiation process. Most relevant to the topic at hand, it could be ruled out that the Taliban would agree to dialogue in order to gain access to political power, only to breach the constitution and reinstate a theocratic regime once the negotiations were concluded. The possibility that militants would use negotiations as cover for their true intentions seemed increasingly likely due to their position of strength. It is for this reason that several authors insisted that ISAF military victories must precede any attempts at negotiation.¹⁶

Christopher Hewitt has made a more general point about insurgent groups having double agendas. He claims that such groups usually have only double agendas when the ceasefire concerned is in effect for a long period of time. When the lull in the fighting lasts less than a month, an escalated level of violence is not expected to follow the renewal of hostilities. This suggests that governments engaged in strategic negotiations, those that aim to resolve core issues of contention, stand to lose the most if their attempts at reaching a negotiated settlement fail.¹⁷

That opportunities for dialogue can be misappropriated by irregular opponents in order to bide time for a renewed offensive, or to conceal their true intentions, appears beyond doubt. Perhaps more interesting is the question: under which circumstances, or at which point in time, is such an event most likely to occur? Based on the available

literature it seems that abuse of negotiations is most likely when insurgent strength vis-à-vis the government has grown, but is still insufficient to achieve a decisive victory. This appears to occur in the mid-phase of irregular conflicts; after government forces have failed to utilise their initial advantages in power and resources to crush their opponents. In this phase, negotiations may be used by either side to conceal a temporary weakness, exploit the weakness of the other, or regroup in preparation for the next round of fighting. Only when neither side is able to achieve a decisive power advantage, and a mutually hurting stalemate sets in that is recognised by all combatants, do the chances of actual negotiations taking place increase.¹⁸

The Second Paradox: Peace Processes Can Spawn More Violence

As briefly pointed out in regard to the Taliban, insurgencies are seldom monolithic in nature. More often than not, members of such groups hold contradictory perspectives on the aims that are to be achieved, the preferred ways of doing so, and the extent to which concessions can be made without betraying the ultimate goals. As a result, negotiations are virtually never seen as a positive development by all subgroups of the insurgent or terrorist organisation. This can lead to the formation of splinter groups who view talks as a betrayal of principles or who fear that the outcomes of negotiations will limit their power. In his famous 1997 article, Stephen Stedman labelled such groups and their violent attempts to sabotage peace processes as ‘spoilers’.¹⁹

‘Peace processes create spoilers.’²⁰ In other words, the refusal to negotiate is not necessarily a given characteristic of a certain faction, but is determined instead by how the militants perceive a specific set of negotiation goals. Not only can this perception change over time, when assessing the extent of a spoiler’s commitment to sabotage it is also crucial to make a distinction between rhetoric and intent. Despite years of calling for the destruction of Israel, there were indications prior to the renewal of major hostilities in 2006 that the Lebanese Hezbollah would in practice not oppose talks between Damascus and Tel Aviv. Similarly, the IRA and the PLO are examples of organisations that have shown themselves willing to negotiate after decades of deadly violence and the promulgation of absolutist aims.²¹

As Stedman writes, some spoilers are part of the peace process and break the agreements they initially commit to. Others are external to the proceedings and use violence to frustrate the endeavour. The risk of the latter situation occurring increases with the number of parties left outside of the peace talks. For example, during the Israeli–Palestinian peace process of the 1990s, Hamas and Palestine Islamic Jihad had no part in the talks and initiated sustained terrorist campaigns to thwart their rivals in Yasser Arafat’s Fatah movement. The intention to sabotage peace proceedings can originate within a terrorist faction’s leadership or its membership base. If the first case holds true, governments may be able to reduce the threat to the negotiations by effectuating a change of leadership. However, when the desire to undermine the dialogue is broadly supported it becomes more difficult to wield effective countermeasures.²²

Spoilers can be further differentiated by the goals they pursue, which Stedman lists as limited, total, or pragmatic. The first category may seek inclusion in the peace process or compensation for losses suffered. While it is by no means a given that these relatively limited goals will be pursued by equally limited means, this type of spoiler may be the easiest to accommodate. Total spoilers, on the other hand, seek absolute power and are usually unwilling to make any concessions. Coercion may be the only effective way of containing such groups. Pragmatic spoilers, finally, adjust their goals in accordance with their position vis-à-vis their opponents; tending towards total aims when the situation favours them and toning down their demands when it does not. Socialisation, that is punishing unwanted behaviour but rewarding compliance, may be an effective management strategy for this type of saboteur.²³

The first requirement for any government wishing to take steps against spoilers is to identify what kind of group they are dealing with. What are the spoiler’s aims and what motivates it to undermine the negotiations? How committed is a spoiler to its acts of sabotage? To what extent is the faction’s leadership able to exercise control over the membership and how homogeneous is the organisation? Finally, how are the government’s countermeasures affecting the spoiler’s behaviour?²⁴

Obtaining answers to these vital questions is no mean task, and Stedman’s five organisational obstacles can make it more difficult still. If the government or organisation wishing to act against the spoiler previously supplied the dissidents with patronage, this

past commitment may obscure a clear analysis of the present security dilemma. Organisational doctrine, such as a staunch adherence to neutrality, or strong preferences for a certain form of conflict resolution, may also delay the formulation of effective policy. Finally, organisational interests can stand in the way of vigorous action, and organisational roles can narrow the way in which information is interpreted, leading to a skewed perception of reality.²⁵

Stedman's emphasis on organisational obstacles to the effective management of spoilers is related to his view that mediation from international actors, be they states or organisations such as the UN, is crucial if spoilers are to be contained. 'Where international custodians have created and implemented coherent, effective strategies for protecting peace and managing spoilers, damage has been limited and peace has triumphed.'²⁶ Yet creating such effective strategies is not only a difficult task in itself, there is also the question of whether international custodians can be found who are willing to take on this burden. Finally, it is not uncommon for the spoilers themselves to enjoy the patronage of powerful international actors, a factor that can increase the complexity of any management strategy.²⁷

Benjamin Walter and Mehran Ghadiri offer another possible solution to the spoiler dilemma based on research on the recent conflict in Iraq. Of the variety of influences to which spoilers are subjected, cultural ones play a large role in predicting if and when these saboteurs come into action. By recognising the spoilers themselves as legitimate actors in a conflict instead of an unwanted byproduct, mediators can alleviate the damage these dissidents do. Mutual recognition can thus function as a mediation mechanism.²⁸

While spoilers constitute a major risk to peace processes and negotiations, there is evidence to suggest that this danger is not insurmountable, even if it is not contained. Desirée Nilsson has shown that parties involved in negotiations sometimes take the danger of spoilers into account when signing agreements. When not all combatants take part in the negotiations, those that do may realise in advance that sabotage of the proceedings can occur. Quantitative research has shown that the longevity of such agreements is not negatively affected by spoilers. Even partial peace agreements can be sustained over time despite their limited inclusiveness. Examples include the agreement

that the Philippine government and the Moro National Liberation Front (MNLF) concluded in 1996 while the country's struggle against the Moro Islamic Liberation Front (MILF) and Abu Sayyaf rebels continued. In Burundi, a 2000 peace deal between the government and insurgents belonging to Frolina, Palipehutu, and Conseil National Pour la Défense de la De'mocratie/National Council for the Defense of Democracy (CNDD) remained in force despite violence committed by factions belonging to the Conseil National Pour la Défense de la De'mocratie-Forces pour la Défense de la Démocratie/National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) and Palipehutu-FNL splinter groups.²⁹

Furthermore, when spoilers cannot count on significant popular support, their acts of sabotage may strengthen the very peace process they are attempting to destroy. When dissidents belonging to the 'Real IRA' detonated a car bomb in Northern Ireland's Omagh mere months after the Good Friday Agreement had been signed, this act of terrorism was popularly perceived to underline the importance of more dialogue, not less.³⁰

Another interesting aspect of spoilers is that they may not always be an unwanted side effect of negotiation processes. Research by Patrick Johnston suggests that some governments have actively sought to fracture insurgent groups in order to control the largest factions, using them to combat the remaining opposition groups. Johnston specifically cites Sudan and the current Darfur crisis as an example. Under pressure from the international community to commit to a peace process, the Sudanese government created spoilers to maintain its own position of strength. By making concessions to some rebel groups, the government appeared to be complying with the international mediators' demands. But instead of aiming for an inclusive peace, the Sudanese government allied itself with the strongest factions. This caused the fragmentation of the opposition groups, allowing the Sudanese politicians to label those movements not allied with it as 'spoilers' who were subsequently combated with the help of the government's new allies. By allying itself with whichever insurgent group happened to be the most powerful, the Sudanese government maintained its position of strength and kept the opposition in disarray while appearing to the outside world to be committed to the search for a peaceful settlement.³¹

In Afghanistan, there is a high probability that possible future negotiations between the Kabul government and the Taliban will be undermined by spoilers. This risk stems not just from the heterogeneous nature of the Afghan insurgency, but also from the vicious rivalries inherent in the Afghan political system and the country's tribal structure. In addition there is Al-Qaeda to be reckoned with, as well as Jihadist groups indigenous to Pakistan who have a strong interest in Afghanistan's political future. Last but certainly not the least, there is the regional dimension, with both Pakistan and India concerned about Afghanistan's future and liable to provide patronage to those groups who best serve their interests.³²

Two short remarks will serve to conclude this section of the article. First of all there is Jonathan Stevenson's opinion that because terrorist organisations are frequently unable to command the obedience of all their members, violations of treaties or ceasefires should not immediately be taken as grounds for ending negotiations. 'Command and control is notoriously attenuated and fractious in guerrilla organisations like the IRA. Aberrational violations should [be] expected, duly condemned, and finally ignored.'³³ Second, splinter groups are not exclusively linked to terrorist organisations. As already noted in the case of Sudan, this phenomenon can be observed in relation to states as well.

The Third Paradox: Negotiated Settlements Are of Limited Durability

According to Audrey Cronin, several general insights into the strategic effectiveness of negotiations can be deduced on the basis of historical experience. First, she finds that there is a direct correlation between the duration of a conflict and the likeliness of dialogue being opened, though negotiations only occur in roughly 20 per cent of armed conflicts. Most of these cases concern struggles over territory in which a government has faced a drawn out terrorist campaign. Second, negotiations seldom lead to clearcut and uncontested results, instead taking the form of peace processes that can drag on for years. Third, even when negotiations are used as a method of conflict resolution, violent methods are usually pursued parallel to dialogue. The most likely outcome of strategic negotiations is the terrorist groups' political participation.³⁴

In a study on the durability of peace agreements in Southeast Asia, Karl Derouen, Jacob Bercovitch, and Jun Wei show that the duration of conflicts in this region

correlates positively with the stability of negotiated settlements. When both sides know the extent of each others' endurance and tolerance for pain, returning to violence becomes a less attractive option. Even so, the authors find that those conflicts that have ended through one side's military victory have been far more durable than ones in which dialogue led to peace agreements. Thus they reach a crucial, if rather bleak, conclusion.³⁵ Namely, that '[n]egotiated settlements in civil wars are often little more than short inter-regnums where little is accomplished, and each side believes it can gain more in the second round'.³⁶

Although there is a lively academic debate about many of the aspects of negotiating, there seems to be a remarkable amount of agreement on negotiation's limited effectiveness as an instrument for reaching a durable solution to armed conflicts. In a 2005 contribution, Robert Mandel points out that 'in modern times, "fifty-four percent of peace agreements break down within five years of signature"'.³⁷ This finding is supported by various other sources, among them the 2005 Human Security Report which states that '40% of post-conflict countries [relapse] into war again within five years.'³⁸ Ten years earlier, Roy Licklider was equally pessimistic, as his research indicated that only 15 per cent of internal conflicts are resolved through dialogue.³⁹

Similarly, Navin Bapat argues that negotiations between governments and terroristonly lead to positive results in one-third of cases, a number that is even lower for civil wars. 'Not only does negotiation frequently fail, combatants in insurgency often do not try.'⁴⁰ When peace agreements do come about, they tend to be very fragile. In this regard a military victory by one of the combatants is to be preferred. Not only does it preclude difficult political processes in which progress is hampered by the use of vetoes, but by removing one side's ability to wage armed resistance military victories also prevent the resurgence of violence in a practical sense.

The importance of this last point is underlined by a study conducted by Monica Toft. She concludes that '[p]eace following a decisive military victory lasts longer and the prospects for postwar development are better than for negotiated settlements. By contrast, negotiated settlements seem to cause postwar governments to become less democratic over time'.⁴¹ The final paradox of negotiations, then, is that military solutions appear to offer a better chance at a robust peace and democratic development than

dialogue-based options. Ironically, military victories are highly attractive for their stability but at the same time highly elusive in this type of asymmetric conflict.

It is interesting to briefly consider if the same paradox applies to tactical negotiations; do minor concessions to terrorists have an equally unconvincing track record when it comes to diminishing levels of violence? In contrast to the debate about strategic negotiations, the available literature shows a larger divergence of opinions. Authors such as David Charters and Paul Wilkinson are highly critical of any form of concessions to terrorists, and as the following paragraph will illustrate, their concerns are not unjustified.⁴²

In 1981, French president François Mitterand declared a partial amnesty for imprisoned members of the terrorist group Action Directe. Not only did those militants who had not been pardoned go on hunger strike, the released prisoners rearmed themselves and precipitated an escalation of violence. ‘Some members of Action Directe, particularly the two “historic leaders”, returned to the underground and initiated a strategy of political assassinations, whereas before the group had restricted itself to relatively harmless bombings.’⁴³

With regard to the Pakistani Taliban, Shazadi Beg and Laila Bokhari have also concluded that concessions have led to more, rather than less, violence. While negotiations between the Pakistani government and local leaders from the Federally Administered Tribal Areas on the border with Afghanistan reduced the frequency of open clashes, the number of Pakistani soldiers being kidnapped for ransom increased sharply.⁴⁴

Other authors are somewhat more nuanced in their views on the efficacy of making concessions. Ethan Bueno de Mesquita posits that concessions may contribute to a conflict’s resolution, but that those who accept them leave behind a dedicated hardcore of spoilers who may oppose any form of compromise. Able to take over the organisation once the co-opted ‘moderates’ have moved closer to the government, the hardliners frequently initiate spoiler campaigns. Thus, the level of violence during negotiations may actually be of a higher intensity than before concessions were made.⁴⁵

Richard Hayes and his colleagues also take a two-sided view of concessions to terrorists. According to these authors, relatively small concessions, such as offers of amnesty or freedom from persecution, do not seem to correspond with increases in

violence. On the other hand, when politicians attempt to appease terrorist organisations by giving into significant political demands, ‘the likelihood of more attacks of the same type rises significantly’.⁴⁶ These insights match those of Richard Clutterbuck, who states that concessions can lead terrorists to repeat certain tactics they see as yielding results.⁴⁷

In all, it seems that using negotiations as a means of resolving terrorism- and insurgent-related conflicts often spawns more violence than it prevents. Not only are negotiated outcomes rare in counterterrorism struggles, but even when the warring parties put their signatures to an agreement there is a high probability that the conflict will be resumed in the near future. Ironically, military victories, while also unlikely, appear to offer better chances of a stable peace, as well as better reasons to hope for the development of a more democratic society. While there is a remarkable amount of unanimity among authors in regard to the limited effectiveness of strategic negotiations, the views on more limited forms of concessions show a divergence of opinions.

All Is Lost?

The picture painted so far has been rather bleak. Negotiations can be abused to hide a terrorist group’s real motives, they can spawn more violence by giving rise to spoilers who vehemently oppose the peace process, and even on that rare occasion when an agreement is drafted, its durability is questionable. Yet it should be remembered that negotiation is seldom the only aspect of a counterterrorism strategy. In fact, the effectiveness of concessions and dialogue with terrorists is determined in large part by the other countermeasures enacted, their effects on the struggle, and important contextual factors such as the influence of public opinion. All is not lost, therefore, as given the right circumstances’ negotiations can form a vital part of a government’s overall counterterrorism strategy, as the following paragraphs will illustrate.

During Italy’s experience with domestic terrorism in the 1970s and 1980s, various counterterrorism methods were put into play. These ranged from a marked lack of a coordinated government response during the early stages of the fight against left and right-wing extremism, to far-reaching legal reforms, the formation of specialised police inspectorates and the use of special forces. Concessions were principally used in the so-called ‘Penitence Law’ which made it possible for terrorists, both already convicted and

those still at large, to be awarded reduced sentences in return for their cooperation with the authorities.

Put into action during the early 1980s, this measure played a key role in putting an end to the infamous *Brigate Rosse*. Yet its effectiveness can only be properly understood when the effects of other counterterrorism measures and the broader context of the conflict are taken into account. Increasingly effective police work and the loss of mainstream popular support, which followed the *Brigate Rosse*'s murder of a popular Italian politician, had put the militants in a very tight spot from which the Penitence Law provided a last-chance exit. Thus, concessions were effective because they were accompanied by coercion and the loss of popular support the movement needed to sustain itself.⁴⁸

A similar understanding of the overall context, together with the full range of government measures, is required to explain the success of the peace process in northern Ireland. The 1998 Good Friday Agreement was a landmark in the Northern Ireland conflict and a historical step towards the peaceful resolution of the 'Troubles'. By itself, this could be taken to indicate the effectiveness of negotiations. Dialogue only became a serious option, however, after decades of violence had proved to all sides the futility of attempting to force a unilateral military solution to the conflict. Years of terrorism, harsh police violence, the deployment of the British Army, controversial legal changes, and the use of special forces could thus be seen as a 'prerequisite' before negotiations could be truly effective. Tripodi's earlier article in this special edition appears to confirm that a 'mutually hurting stalemate' set in, and helped to persuade the combatants to search for alternative ways to resolve the conflict.⁴⁹

In the context of the Israeli–Palestinian conflict, negotiations played their largest role to date during the peace process of the 1990s. A comparison with the Northern Irish case can be made to the extent that the Oslo accords also followed decades of terrorism and violence. Israeli counterterrorism policies have always shown a strong preference for violent and repressive measures. The armed forces have repeatedly been used to target terrorists and the infrastructure supporting them, to conduct reprisal raids and in more recent years to assassinate individual terrorist leaders. In turn, the various Palestinian terrorist groups have committed untold numbers of attacks against Israeli targets, both

civil and military. Yet despite high levels of reciprocal violence, neither side has been able to achieve its goals.⁵⁰

After further deterioration of the security situation during the first Intifada (around 1987–1993), years of violence yielded to the first serious attempts at negotiation. The peace process was undermined, however, by relentless spoiler operations undertaken by groups such as Hamas and the Palestine Islamic Jihad, and Israel's harsh military response to these events. Both sides held each other responsible for the failure of the dialogue and public confidence in the peace process plummeted. The outbreak of the second Intifada in 2000 marked the definitive failure of the negotiations and heralded a sharp escalation of violence. Without an understanding of what happened simultaneous to the negotiations, this outcome cannot be fully explained. Negotiations should thus not be assessed in isolation from other counterterrorism measures and the broader development of the conflict in general.⁵¹

In regard to the situation in Afghanistan up to 2011, researchers were unfortunately unable to benefit from hindsight. Nevertheless, it appeared that the effectiveness of possible negotiations with the Taliban would also be subject to development of the broader strategy to tackle the insurgency. As Semple argued in 2009, there were plentiful opportunities for broadening the scope of conciliatory policies in that country. Such an approach could play a crucial role in undermining the Taliban's popularity while increasing the very low legitimacy of the Karzai regime. However, it was of fundamental importance that the overall security situation should improve before negotiations were attempted. As of early 2011, the Taliban enjoyed a position of strength that still disinclined them to make the concessions required for any dialogue to bear fruit. The Western coalition, therefore, still needed to attain military victories over the Taliban, diminish the supply of new recruits, and improve the functioning of the Afghan government. Once again, the efficacy of dialogue appeared to be dependent on the development of the broader counterinsurgency strategy.⁵²

Conclusion

These examples illustrate the important point that negotiations are not events unto themselves. The effectiveness of negotiations is determined not just by the process of

dialogue, but also by developments external to it. Learning more about the effects of government countermeasures on the development of low intensity struggles could provide important new insights into understanding why negotiation can be a viable means of conflict resolution in one case, but not the other.

This article has attempted to point out that negotiation processes are complex and are prone to produce many counterintuitive results. These paradoxes are, however, not grounds for dismissing this policy option. If anything, the lack of academic consensus on key issues related to dialogue with terrorists, and the fact that many authors base their often rather prescriptive findings on a relatively low number of case studies, point towards the necessity of further research in this field. If more were to be known about the conditions under which negotiations do and do not contribute to conflict resolution, governments might be able to avoid the detrimental effects of the paradoxes outlined in this article.

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Notes

¹ Prunier, *Africa’s World War*.

² Smith, *Palestine and the Arab–Israeli conflict*.

³ Zartman, *Ripe for Resolution*.

⁴ Bapat, ‘Insurgency and the Opening’, 700–1; Toros, ‘Legitimacy and Complexity’, 407–26.

⁵ Bapat, ‘Insurgency and the Opening’, 700–1; Toros, ‘Legitimacy and Complexity’, 408, 410; Wilkinson, *Terrorism versus Democracy*, 51–2; Byman, ‘Talking with Terrorists’, 125–26, 129.

⁶ Bapat, ‘Insurgency and the Opening’, 700–1, 707, 713; Mnookin, ‘When Not to Negotiate’, 1082, 1084–85.

- ⁷ Exum et al., *Triage*, 12–13.
- ⁸ Crawshaw, cited in: Hewitt, *The Effectiveness of Anti-Terrorist Policies*, 40.
- ⁹ Wilkinson, *Terrorism and the Liberal State*, 155; Kennedy-Pipe, *The Origins of the Present Troubles*, 64.
- ¹⁰ Cronin, *How Terrorism End*, 64.
- ¹¹ Neumann, 'Negotiating with Terrorists', 132–33.
- ¹² Rostom, 'Talking to the Taliban'; Bernstein, 'Letter from America: Is it Time to Engage the Taliban', *The New York Times*, 11 February 2010; Rashid, 'How to End the War in Afghanistan'; Ihlau, 'Guttenberg's Plans'; Bright, 'Talking to Terrorists', *New Statesman*, 20 February 2006, 14–15; Smith, 'British Troops in Secret Truce With the Taliban', *The Sunday Times*, 1 October 2006.
- ¹³ Barakat and Zyck, 'Afghanistan's Insurgency', 193–210.
- ¹⁴ Semple, *Reconciliation in Afghanistan*, 3–4.
- ¹⁵ Kilcullen, 'Taliban and Counter-Insurgency', 231–32; Sharma, 'Afghan Negotiations', 1; Serra, 'Why Not to Negotiate', 3–15.
- ¹⁶ Kilcullen, 'Taliban and Counter-Insurgency', 231–32; Sharma, 'Afghan Negotiations', 1; Serra, 'Why Not to Negotiate', 3–15; Barakat and Zyck, 'Afghanistan's Insurgency', 200.
- ¹⁷ Hewitt, *The Effectiveness of Anti-Terrorist Policies*.
- ¹⁸ Zartman, 'The Timing of Peace Initiatives', 19–20.
- ¹⁹ Stedman, 'Spoiler Problems in Peace Processes', 5–53.
- ²⁰ *Ibid*, 7.
- ²¹ Byman, 'Israel and the Lebanese Hizballah', 310; Smith, *Palestine and the Arab–Israeli Conflict*, 420.
- ²² Stedman, 'Spoiler Problems in Peace Processes', 9, 11–12.
- ²³ *Ibid*, 9–15.
- ²⁴ *Ibid*, 17–18.
- ²⁵ *Ibid*, 48–51.
- ²⁶ *Ibid*, 6.
- ²⁷ *Ibid*, 16, 51.
- ²⁸ Walter and Ghandiri, 'Recognizing the Problems', 656–80.
- ²⁹ Nilsson, 'Partial Peace', 479–495.
- ³⁰ Cronin, *How Terrorism Ends*, 69–70.
- ³¹ Johnston, 'Negotiated Settlements', 359–77.
- ³² Semple, *Reconciliation in Afghanistan*, 75–6; Barakat and Zyck, 'Afghanistan's Insurgency', 198.
- ³³ Stevenson, 'Northern Ireland', 134.
- ³⁴ Cronin, *How Terrorism Ends*, 36.
- ³⁵ Derouen et al., 'Duration of Peace', 103–20.
- ³⁶ *Ibid*, 116.
- ³⁷ Mandel, 'Reassessing Modern Military Victory', 11.

- ³⁸ Human Security Centre, *The Human Security Report*, 9.
- ³⁹ Licklider, 'The Consequences of Negotiated Settlements', 681–82, 684–87.
- ⁴⁰ Bapat, 'Insurgency and the Opening of Peace Processes', 700.
- ⁴¹ Toft, 'Peace Through Security', 40. See also Toft, 'Ending Civil Wars'.
- ⁴² Charters, *The Deadly Sin of Terrorism*, 212–3, 215; Wilkinson, *Terrorism and the Liberal State*, 133.
- ⁴³ Crenshaw, 'How Terrorism Declines', 83.
- ⁴⁴ Beg and Bokhari, 'Pakistan', 224–42, 235–36.
- ⁴⁵ Mesquita, 'The Terrorist Endgame', 237–58.
- ⁴⁶ Hayes et al., 'Negotiating the Non-Negotiable', 455.
- ⁴⁷ Clutterbuck, 'Negotiating with Terrorists', 285.
- ⁴⁸ Weinberg, 'The Red Brigades', 53–55.
- ⁴⁹ Richardson, 'Britain and the IRA', 63–104.
- ⁵⁰ Smith, *Palestine and the Arab–Israeli Conflict*. Mumford, 'Covert Peacemaking: Clandestine Negotiations'.
- ⁵¹ Maoz, *Defending the Holy Land*; Smith, *Palestine and the Arab–Israeli Conflict*.
- ⁵² Barakat and Zyck, 'Afghanistan's Insurgency', 200–4; Semple, *Reconciliation in Afghanistan*, 5, 30–32, 39–42, 65–66, 74–76, 86.

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