

“We Don’t Negotiate With Terrorists”

India’s Negotiation of the Christmas Eve Hijack

1. Introduction

For any normal conflict, negotiations are integral to finding an amicable resolution. Yet, sovereign states like the United States, Israel and India are formally opposed to even entering into a negotiation when terrorist organizations make demands. The argument against negotiation is simple: negotiating with terrorists will give them legitimacy and set a dangerous precedent that may endanger more lives in the future. The official line remains, “We don’t negotiate with terrorists.”

Yet, in practice, democratic governments often enter into such negotiations even after being victims of aggression. The British government continued to talk with the Irish Republican Army (IRA) even after they launched a mortar attack on 10 Downing Street that nearly eliminated the entire British cabinet in 1991 (Neumann, 2007). The United States recently negotiated the release of Army Sgt. Bowe Bergdahl by releasing five senior Taliban officials from Guantanamo Bay. And even Israel freed more than a thousand prisoners in 2011 for the release of captured Israeli soldier Gilad Shalit.

So, it is evident that states do negotiate with terrorists. But the official policy of ‘no negotiations’ has prevented a systematic appraisal of how to engage with

terrorists during negotiations. This essay shall examine tactics that may be useful in such negotiations, especially in situations where the terrorists have hostages. Further, it shall examine the case study of the hijack of Indian aircraft IC 819 on Christmas Eve 1999 and analyze how India could have achieved better results.

2. Contemplating Negotiations

The key objective for any government in contemplating negotiations with terrorists is not just to end violent but also to minimize the risk of setting a precedent that could cause a snowball effect in the future (ibid). Thus, a few conditions must be met before a negotiation can even begin. The governments must decide if terrorists can be trusted to uphold their part of the bargain, if a settlement is reached. Moreover, the terrorist organization must have a cohesive structure that ensures that other members of the group will honor any compromise reached by the leaders of the organization. For example, it isn't clear that ISIS or Boko Haram regional and local leaders would honor all settlements made by the Abu Bakr al-Baghdadi or Abubakr Shekau respectively. And so, reaching a settlement with the leadership of these organizations does not ensure that all members of the organization will keep their end of the bargain.

If a state enters into a negotiation, it has to attempt to find a settlement with the terrorist organization while simultaneously maintaining legitimacy and managing the expectations of the public and the opposition. However, states can be forced into a negotiation when the terrorists take several hostages. The next

section shall analyze the standard strategies employed by negotiators in such situations.

3. Negotiating in Crisis Situations

Armed intervention is dangerous in hostage situations as innocent civilians can get injured. This makes the role of the negotiator/ negotiating team incredibly important. The negotiator must ascertain the demands of the terrorist, their minimum threshold for a peaceful settlement while maintaining the safety of the hostages and other bystanders (Grabianowski, 2005).

The first priority for the negotiator in any crisis situation is to gather information. The negotiator must find out who the hostage takers are, what organization they belong to, why they are holding people hostage, what their demands are and the identity of their leader (ibid). Appendix 1 of this paper provides an initial checklist for a negotiator in a hostage situation (from the Hostage Negotiation Study Guide, 2003).

Meanwhile, he/she must create a psychological profile of the hostage takers to determine how they might respond to certain situations. Grabianowski (2005) points out that trained negotiators are taught to respond very differently to individuals who are depressed and suicidal or cold, rational and pragmatist.

4. Objectives and Tactics of the Negotiator

The primary objectives of a negotiator are:

- a) **Keep things calm** – the hostage takers are likely to be extremely volatile, especially after the initial assault and during the first few hours of negotiations. They are likely to be angry about the injustice that has driven them to take hostages. Such angry and excited people can be dangerous and may harm the hostages at the slightest provocation. Thus, they must be dealt with calmly and patiently. None of their requests should be denied outright and they must be assured that their concerns are being heard.

- b) **Stall** – By delaying, the negotiator can buy valuable time for the security forces to assess the situation. Any deadline that may result in an injury or death should be pushed back and the hostage takers must be engaged in an open-ended discussion. This would provide more information and delay any actions on the part of the hijackers that may cost lives.

- c) **Ensure the safety of the hostages** – the hostage takers must be convinced to allow injured hostages to be released or provided with medical treatment in return for the delivery of food and water. If possible, this opportunity can be used to secure the release of as many hostages as possible as a show of good faith by the hostage – takers. Reducing the number of hostages reduces the chances of collateral damage in case of an armed assault and the released hostages can be useful sources of information about the hostage takers.

d) Attempt a peaceful resolution – the negotiator must seem understanding and reasonable to the hostage – takers. By encouraging activities that require cooperation between the captors and the hostages, like sending food in bulk so that it has to be prepared, the hostage takers can get to know the hostages and see them as human beings, making it more difficult for them to execute them (ibid).

The objectives and tactics are primarily derived from Grabianowski (2005). In the next section shall look at the case study of the Christmas Eve hijack.

5. Case Study: The Christmas Eve Hijack of Indian Airlines Flight 814

On Christmas Eve 1999, Indian Airlines Flight 814 departed from Kathmandu, Nepal for New Delhi carrying 178 passengers. Five of the passengers seated in First Class were terrorists who had exploited the lax security at Kathmandu's International Airport to smuggle pistols, grenades and knives on board as their carryon luggage.

Forty minutes after takeoff, the men ordered the pilot to reroute the plane and fly to Lahore, Pakistan. Immediately, the pilot used an emergency transponder code to send a signal to Delhi air traffic control and apprise them of the situation. Thus, the Indian government was aware of the emerging crisis almost as soon as it began.

Lahore air traffic control denied the flight permission to land and closed Lahore airspace. Since the flight was running low on fuel, the pilot suggested that they divert the plane to the Indian city of Amritsar, which is close to the India – Pakistan border. Though the hijackers were reluctant to land in Indian territory, they relented as the plane's fuel supplies started dwindling. The flight arrived in Amritsar at 7 p.m. local time.

Meanwhile, the Indian government had activated the Crisis Management Group (CMG) to address the situation. The CMG summoned the National Security Guards (NSG) and deployed them to Amritsar from their base in New Delhi. Also, the CMG asked the state and local authorities to delay refueling and give the NSG time to reach the city. However, half an hour after landing, and no activity from the local authorities, the terrorists became suspicious and forced the pilot to take off immediately, irrespective of the paucity of fuel.

The pilot tried to negotiate with the terrorists and requested that they give the state authorities more time. In response, Chief, (the alias of the terrorist in charge of the operation) picked an Indian citizen at random, a Rupin Katyal, and started stabbing him repeatedly. Rupin was a twenty – five year old Indian citizen who was just returning home from his honeymoon with his wife. Chief threatened to kill more passengers if the pilot made any further demands. The pilot felt like he had no choice and immediately took off.

The negotiation team took a long time to assemble and further delays in loading the necessary military equipment required to storm the plane meant that the

NSG team did not depart from New Delhi till 7 55 p.m. By that time, the plane had left Amritsar airport and was en route to Lahore.

Reluctantly, Lahore let the flight land but after refueling, the flight was asked to leave. IC 814 finally landed in Kandahar, Afghanistan on Christmas morning at 8.30 a.m. Since India did not maintain diplomatic relations with the Taliban regime that was in power in Kabul at the time, the Indian government had to coordinate with the Afghanistan embassy in Islamabad. The negotiation team did not reach Kandahar till December 27, four days into the hijacking. No NSG forces were allowed to travel to Afghanistan and the Taliban positioned tanks and rocket launchers around the aircraft to prevent any rescue attempt.

As negotiations began, the hijackers made their demands clear. They wanted

- 200 million dollars in cash
- The release of thirty six militants who had been captured and were in Indian jails
- The body of Sajjad Aghani, a militant leader killed by Indian security forces six months prior to the incident

By this time, the conditions for the passengers onboard the aircraft had deteriorated. Lavatories were overflowing, food was scarce and the temperature in the aircraft was freezing. The relatives of the passengers put further pressure on the Indian government to resolve the situation and pleaded with the government to meet the demands made by the hijackers.

The Indian government had a small NSG team that had travelled to Kandahar hidden away on the aircraft of the negotiating team. But hostile Taliban forces had surrounded the hijacked aircraft and the Afghanistan government was no ally.

Negotiations went on for four days. On New Years Eve, the two parties finally reached a settlement. The hijackers were offered three high value prisoners who had been involved in militant activities and were languishing in Indian prisons, Maulana Masood Azhar, Ahmed Omar Saeed Sheikh and Mushtaq Ahmed Zargar. The passengers and crew of the aircraft were finally released. The hijackers safely escaped into Pakistan.

The released prisoners reside in Pakistan and have gone on to commit further attacks, primarily against India and the United States. Maulana Masood Azhar went on to stage the December 2001 attack on the Indian Parliament. Ahmed Omar Saeed Sheikh is widely believed to have orchestrated the kidnapping and beheading of Wall Street Journal reporter Daniel Pearl.

This narrative was based primarily on accounts by Holliway (2010) and Chari (2000).

6. Analysis of the Negotiation

Certainly there was tremendous pressure on the Indian negotiators. Apart from the Indian citizens, there were foreign nations among the hostages. The Taliban government of Afghanistan had given India a deadline of December 31st to reach an agreement and was threatening to order the aircraft to leave Kandahar. The hijackers were threatening to kill more passengers and had already claimed one victim. Moreover, on the domestic front, the ruling party in India (BJP) wanted a quick settlement and was being pressed by the members of the Opposition, the media and the relatives of the hostages to end the crisis.

In such a stressful environment, could they have done better? After all, there was only one casualty. Yet, all the hijackers escaped unharmed and continue to live in Pakistan today. The freed militants went on to commit atrocities against India and the United States and are responsible for the death of many civilians.

What were India's key failures throughout the ordeal?

- a) Lack of preparation** – The pilot had dispatched a signal to the control room as soon as the plane was taken over by hostile forces. Yet, there was a significant time lag before the Crisis Management Committee communicated with the airports where the plane could be landing. Kumar (2012) argues that the CMC could have at least identified the airports where the flight may have landed and get local authority and force staged there with sufficient forewarning. In fact, while the aircraft stayed on the

tarmac for forty minutes, there were no orders available to the Amritsar local authority. The Director General of Punjab Police wasn't contacted at all and had to rely to the evening television news report to collect information.

Moreover, there was no negotiation team that contacted the aircraft while the plane was on Indian Territory. Consequently, with no communication, the hijackers got nervous and forced the pilot to takeoff. If a clear channel of communication had been established and the hijackers could have been engaged, there is a possibility that it would have given the forces enough time to launch an attack. Once the plane left for Pakistan and subsequently, Afghanistan, India's did not have a BATNA of launching a military assault if the negotiation failed.

- b) **Lack of coordination** – Chari (2010) points out that both the Cabinet Secretary (the head of the Crisis Management Committee) and the National Security Adviser were issuing parallel instructions. There was an absence of coordination among government ministries as well. After the crisis, the Home Ministry and the Defense Ministry accused the Foreign Ministry of monopolizing the response and not consulting them (Kumar, 2012).

Once the negotiations began, there is evidence to suggest that the negotiation team kept receiving mixed signals from the government officials and were engaged in negotiations when the government

suddenly capitulated and decided to release all three high value prisoners. There has been speculation to suggest that this was done so that the hostages were freed before the New Year and the delicate stage of the negotiation was disregarded. Thus, the negotiation team did not have control over the duration of the negotiation and proper channels of communication weren't open between the government and the negotiation team.

- c) **Lack of training** – High stake negotiations required skilled personnel who are able to calmly assess the situation and call from their experience to negotiate skillfully and successfully. This is even more important in hostage situations where any error in negotiation can lead to the death of an innocent civilian and a complete collapse of the process.

India's negotiation team wasn't trained or experienced in undertaking hostage negotiations. The negotiation team that was dispatched to Kandahar four days after the crisis began consisted of bureaucrats who had 'seniority.' The team mostly consisted of Joint- Secretary level officers from several Ministries (in an attempt to appease different Ministries and avoid risking the ire of Cabinet members in a coalition government). It is unclear whether the Joint Secretaries had the skills or the training for such a high profile negotiation.

- d) **Lack of updates** – In an age of twenty-four hour news cycles, it becomes the responsibility of the Government to provide timely information about

the progress of the negotiation. This would prevent wild speculations and hysterical relatives from being the center of the media cycle. Instead, the Indian government and the negotiation team provided only terse press updates that showed that India was closely 'monitoring the situation.' The lack of transparency meant that there were further pressures on the authorities due to the speculations of the media that rushed them into a decision.

7. Conclusion

The BJP government's negotiated settlement continues to remain a controversial decision in India. During the subsequent election campaign, the Congress Party, (the primary opposition party) was critical of the BJP and vowed to pass an 'anti-hijacking law' that would prohibit future governments from negotiating with hijackers during future events (Hollaway, 2010).

Worryingly, it feels like India hasn't learnt from the incident. India's emergency response capabilities continue to remain weak and the National Security Guards (NSG) lack a core competent negotiation team to guide the state through a future crisis. These challenges must be addressed or the terrorists will be at an advantage.

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Appendix 1: Negotiator Checklist

Sample Negotiator Checklist

Arrival interview with first responder:	Notes
What has occurred?	
Who initiated the call?	
Time of occurrence?	
Police injuries?	
Suspect injuries?	
Hostage injuries?	
Others injuries?	
What kind of contact has been made with suspect?	
When?	
Is the situation locked in?	
Where are the suspects located?	
Where are the hostages located?	
Where are the non-hostages?	
Where is the floor plan?	
Where are the telephones and types?	
Where are the suspect's observation points?	
What firearms are used/located on the site?	
What explosives/chemicals are located on the site?	
What is the description/profile of the hostage taker?	
What is the description/profile of the hostage?	
What is the nature of the surrounding scene	
What is the offender affiliation/public support like?	

Source: Hostage Negotiation Study Guide 2003
(International Association of Chiefs of Police/Federal Law Enforcement Training Center)