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Should You Negotiate?

Negotiation is a dialogue toward an agreement. The Federal Bureau of Investigation's (FBI) Crisis Negotiation Unit (CNU) uses the Latin motto *Pax per Conloquium*, meaning "resolution through dialog." The current head (Mark Thundercloud) of this unit recognizes that negotiation is akin to communication and to crisis management:

It's been my opinion for years that our unit was misnamed and should have been renamed the Crisis Communication Unit or something similar. Negotiation is a type of communication, but most of what we do involves de-escalation/crisis intervention techniques.

True negotiation is a form of problem-solving and usually not too difficult, since both parties seek an agreement. That applies to terrorism cases, too. During kidnapping cases we employ crisis intervention and de-escalation techniques during interactions with families of victims, since they are usually in unfamiliar crisis states.

(Thundercloud, 2016)

Others define negotiation as influence: "negotiation, ultimately, is the use of communication to exercise influence in order to change someone's thinking, behavior, and decision-making" (Dolnik and Fitzgerald, 2011, p. 268). This definition overlaps a particular practice in negotiations, known as "persuasive messages" or "influence tactics":

We define the use of influence tactics as deliberate actions by one individual (e.g., police negotiator) directed at another individual (e.g., perpetrator) that seek to alter the attitudes and/or behaviors of the target in a way that would not have otherwise occurred.

(Rogan and Lanceley, 2010, p. 59)

In this chapter we consider the arguments about whether to negotiate with terrorists at all (Figure 4.1). In order to be most useful—in the applied, practical

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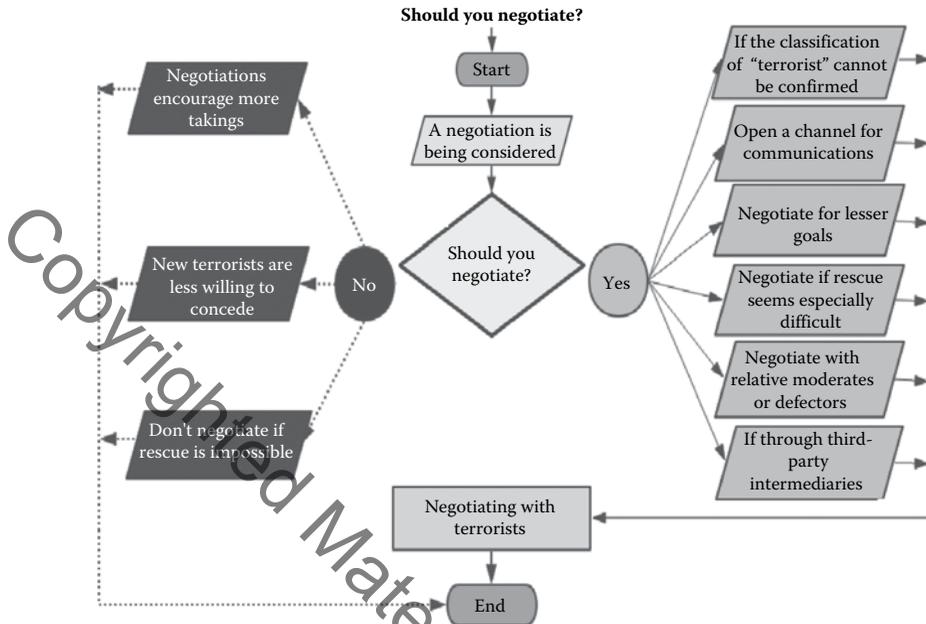


Figure 4.1 A flowchart considering the debates about whether to negotiate with terrorists.

sense, we have reviewed the issue as a debate, and organized our review by nine affirmative or negative arguments, in sequential sections:

1. Yes, if the classification of "terrorist" cannot be confirmed
2. No: negotiations encourage more takings
3. Yes: open a channel for communications
4. No: new terrorists are less willing to concede
5. Yes: negotiate for lesser goals
6. No: do not negotiate if rescue is impossible
7. Yes: negotiate if rescue seems especially difficult
8. Yes: negotiate with relative moderates or defectors
9. Yes, if through third-party intermediaries

Yes, If the Classification of "Terrorist" Cannot Be Confirmed

First, we need to acknowledge that in many hostage-takings, at least initially, the perpetrator cannot be confirmed as terrorist, in which case terrorism is effectively irrelevant to the officials who must make decisions about whether

No: Negotiations Encourage More Takings

to negotiate. Such officials would not want to add to their burdens an additional consideration about whether or not the hostage-taker is terrorist—the officials want to work out how to engage with the hostage-taker as soon as possible. Additionally, officials keep their decision making simpler if they can avoid the semantic frame “terrorism,” which implies more public and official alarm, and possibly also more constraints:

I think it's worth pointing out that the word “terrorist” is often inflammatory and causes political leaders and the public to respond “no!” I think, though, in the middle of a crisis, the word itself and its political and strategic implications are a distraction. In fact, we often don't know during the incident if the subject is a terrorist or “just” a criminal. The police or FBI commander and personnel want to resolve the immediate situation—perhaps a hostage situation or barricaded subject—in a way that protects the public, the responders, and yes, even the subject(s).¹

One principle for negotiating an end to conflict is to offer to decriminalize the other side in return for the other side's commitment to legitimate behaviors (such as nonviolent political expression). This commitment would allow negotiations without giving up the principle of no negotiations with terrorists. By application, the official side can continue to criminalize illegitimate actions, while decriminalizing the actor that gives up those illegitimate actions. This application even allows for the actor to be prosecuted for past illegitimate actions. However, practically, this application would fail if the actor is not incentivized to negotiate unless the prior actions too are decriminalized, which the other side cannot agree (perhaps in deference to the victims of those actions) (Kirkpatrick, 2017).

No: Negotiations Encourage More Takings

Intuitively and theoretically, negotiating with terrorists would encourage more terrorism, at least if the negotiations conceded to the terrorists something they wanted. Theoretically, this expectation is analogous to the basic theories about economic incentives, psychological rewards, and task fulfillment, which are well proven across many domains.

A causal relationship between negotiations and terrorism is difficult to prove with large-*n* datasets, given that negotiations are not necessarily revealed to the public domain, terrorists do not necessarily confirm their motivations, and the coding in large-*n* datasets tends to be remote. Anecdotally, many academics and officials observed that from 1968, when hostage barricade terrorism (HBT) began, initial government concessions seemed to encourage more HBT (Hudson, 1989, p. 326; Wardlaw, 1989, p. 157).

Philosophically, these commentators subsequently offered an essentially utilitarian argument against negotiating: the argument does not deny that negotiation might help the victim in the immediate case, but asserts that negotiating for this victim would encourage the perpetrators to take more victims,

¹ This statement was provided by a retired (as of 2016) counterterrorist agent and incident commander from the FBI, who chose to remain anonymous.

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which ends up worse for society as a whole (Hudson, 1989, p. 323). Some have urged governments to declare that they will not negotiate with terrorists, and to publicize the expectation that sometimes “national security” comes before individuals, and that terrorism cannot be defeated: “Governments must realize themselves and must educate their publics to realize that there are no simple solutions to terrorism” (Wardlaw, 1989, p. 157).

In the 1980s and 1990s, governments normatively refused to negotiate, at least officially, although in the 2000s this norm broke down, as governments became desperate against increasingly effective terrorists and insurgents, as explained in the following sections.

Yes: Open a Channel for Communications Negotiations as Communications

In practice, very few countries have adhered absolutely to their no-negotiations policy, even in the 1980s, when the norm was strongest (Hudson, 1989, p. 338). A policy of no-negotiation does not deter all potential hostage-takers; meanwhile government is constrained by its own policy, accruing victories to terrorists (Hudson, 1989, p. 322). The government’s desire to avoid either causing risk to hostages, or a climb down from a no-concessions policy, boxes it in (Wardlaw, 1989, p. 155). “The fact remains, however, that politicians have painted themselves into a corner over terrorism by talking so loudly for so long about how they will deal a blow to terrorism, when in fact there is little that they can do to execute such action in the short term.” This encourages the official side to view either military action or covert concession as its only viable options (Wardlaw, 1989, p. 159).

If the negotiations are reframed as something closer to communications, then negotiations-as-communications seem more frequent than an official policy of no-concession would suggest, and seem more legitimate: “It would appear that the most useful state response treads a difficult middle line...In other words, a government can indicate that it will respond firmly to terrorist acts and can demonstrate where it is feasible that it will not make concessions, but not put itself in the position of declaiming a policy which some day will have to be ignored” (Wardlaw, 1989, p. 158).

In the era of new terrorism, negotiations-as-communications remain strongly prescribed. For instance, academics Adam Dolnik and Keith Fitzgerald have written that “leaders do not actually mean that they will not negotiate. What they are really saying is that they will not make *deals* with terrorists, make *concessions* to terrorists, *compromise* with terrorists, or *reward* terrorists’ behavior” (Dolnik and Fitzgerald, 2011, p. 267).

Similarly, Gary Noesner, former Chief of the Crisis Negotiation Unit at the FBI, urges clarification of negotiations-as-communications. His most succinct justification is that “Listening is the cheapest concession we can ever make” (Noesner, 2011, p. x).

The problem arises from the misunderstanding of the term negotiate. Many embrace the false belief that negotiations are synonymous with capitulation or

Yes: Open a Channel for Communications

acquiescence, and are therefore unacceptable. Correctly understood, negotiation is simply a dialogue between parties attempting to resolve a disagreement. While some may erroneously infer that negotiation means making substantive concessions, it does not. All agree that our government should not make substantive concessions which reward terrorists for their actions, including the release of prisoners. However, this tough stance does not require repeated public declaration that we will not negotiate, nor should we let this unequivocal phrase inhibit our willingness to open a channel of communications with terrorists in an attempt to save lives... The premise of negotiation is that by engaging in dialogue, we can better understand our adversaries and attempt to positively influence their behavior. Competent negotiation promotes a dialogue that helps defuse and de-escalate any incident, and almost always achieves better outcomes, even with terrorists. Mistaken belief that you cannot, or should not negotiate with terrorists often becomes a self-fulfilling prophecy, usually with lethal consequences. Terrorists are not immune to the influence of competent negotiations. Buying time through negotiation dialogue helps stabilize an incident, promotes better intelligence gathering, allows additional resources to be assembled, and better planning for any tactical action that may be required later. It can also achieve a peaceful outcome. When necessary, successful tactical intervention is best undertaken after significant planning and preparation, and as a last resort.

(Noesner, 2013)

Noesner asserts the value of opening communications as the opening step:

I feel as though rejecting the negotiation process because of any pre-conceived ideas we have about terrorist behavior is a flawed approach. It may be true that extremist jihadist terrorists may be willing to die and might in fact use the negotiation process to protract media attention before killing. While the outcome for a negotiated resolution in such incidents maybe low (only in these most extreme incidents by the way) there seems to be no good argument against attempting negotiations. One could say, "what do we lose" by engaging in dialogue? Despite what some may erroneously conclude, not all terrorists think and behave the same way and we should not view them all as reliably behaving the same way in every incident.

(Noesner, 2016)

Similarly, Roy Ramm, formerly Director of Negotiator Training at the Metropolitan Police in London, has stressed the legal and ethical virtues of negotiation:

We should always consider negotiation as our first response because, it is not the superiority of our weaponry or our numbers that sets us apart from terrorists is our belief in the rule of law. Negotiation is the practical application of that belief and a demonstration of the morality of a liberal democracy. In the face of terror's cruelest provocation, the threat to lives immediately before us, negotiation still offers the hostage takers the opportunity of a non-violent resolution and the protection of our courts and constitutions. This is a principle that is helpful in dealing with the media and post-incident enquiry. This is the moral basis of what we do.

(Ramm, 2016)

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Official Communications

Negotiations-as-communications is helpful for public perceptions, particularly the victims' perceptions. A no-negotiations policy makes the state look passive, and leaves the hostages and their families isolated, hopeless, and resentful.

Even when the government participates, it can look self-restrained and vulnerable to private frustrations. Several governments have been criticized for mishandling communications with a hostage-taker and the victims' families. For instance, in April 2008, Somali pirates seized a French passenger yacht (*MY Le Ponant*) in the Gulf of Aden, with 30 crew members. A private adviser to one of the victim's families found that two agencies of the French government had created separate crisis negotiation teams (the Ministry of Foreign Affairs and the General Directorate for External Security [DGSE]). Although the teams set up a few meters apart in the same building, they refused to communicate with each other, and even papered over the windows of their respective rooms. Both teams could hear conversations on the boat through an open microphone connected to the boat's radio, left open surreptitiously by the boat's captain. Yet neither team had a Somali interpreter, although each assumed that the other did. Eventually, the private adviser proposed to recruit two Somalian immigrants from the streets. Two interpreters were recruited, briefed, and retained in the building until resolution of the crisis, for which they were paid in cash.² After payment of a ransom, the pirates released all the hostages, after which French special operations forces from Djibouti tracked the pirates to a village in Somalia, of whom six were captured, who were brought to France for trial.

The U.S. government has long practiced a policy of not conceding to terrorists, although at the same time it has participated in the crisis. For instance, U.S. agents have usually opened a criminal investigation. The FBI is the U.S. government's lead agency for counterterrorism and organized crime, but it does not make policy and is subject to other agencies or higher executives, through the Department of Justice and the Department of State to the National Security Council, the president's closest advisers, and the presidency itself. The Department of State's Bureau of Counterterrorism leads other agencies in pursuit of the safe recovery of hostages, to bring hostage-takers to justice, and to prevent future incidents. Its Hostage Policy Subgroup refines and implements U.S. policy.

Subject to policy, the FBI's crisis negotiators have been assisting families with their negotiations with kidnapers since the 1990s, without discriminating the kidnapers as terrorist or not. Agents have helped the victims and victims' families psychosocially, by privately briefing or advising the victims' families, or helping in the receipt, transportation, and health care of any released hostages. The capacities and constraints are articulated by the current leader of the Crisis Negotiation Unit (CNU):

² The private adviser who told this story chose to remain anonymous. She told her story to Arnaud Emery at the Centre lyonnais d'études de sécurité internationale et de défense (Lyon Center of International Security and Defense Studies), University Jean Moulin Lyon III.

Yes: Open a Channel for Communications

We're granted the authority to be the U.S. Government (USG) negotiators during hostage/barricade terror incidents when the USG is targeted, which is rare, but even then all decisions, especially regarding concessions, would be made by higher authorities in the USG.

A criminal hostage/barricade situation, such as a trapped bank robber, is different. The on-scene commander(s), FBI or local police, would be the deciders.

Regarding kidnappings, both terror and criminal, the decision-makers are family members, opting between things like ransom amounts, media releases, third-part intermediaries, etc. During kidnappings, negotiators and investigators provide input based on historical experiences, information about global regions and the suspected group responsible, among other things.

(Thundercloud, 2016)

The FBI can legally negotiate (in the sense of communicate), despite the policy often articulated as “no negotiations with terrorists” (in the sense of no concessions), prompting calls for semantic change by a previous leader of the CNU:

Despite the U.S. government's stated policy, FBI negotiators confronting terrorists holding hostages on a hijacked plane at JFK airport would indeed attempt to open a dialogue, not doing so would be reckless. Their efforts to secure the safe release of hostages in exchange for food for example would be appropriate, whereas releasing terrorists from jail would not. They understand the difference and so should our government decision makers. Our “no negotiation” rhetoric can cause confusion and uncertainty, even among our own officials who must manage these incidents.

Government officials should avoid saying we will not negotiate with terrorists, and instead correctly and simply state when necessary what U.S. policy has always really been, that we will not make substantive concessions to terrorists. We should otherwise be quiet, as nothing more need be said.

(Noesner, 2013)

In the process, higher actors in the U.S. government have sometimes negotiated with the terrorists in the sense of communicating with the terrorists, although officially it has not conceded anything. Over time, the government has communicated more with the terrorists on behalf of the victim's families, particularly after a surge in hostage-taking around 2010, and a surge in public criticism of apparent official passivity.

In 2014, the FBI publicized its Terrorism and Special Jurisdiction Program, within the Office for Victim Assistance. Upon a hostage-taking or kidnapping, it locates the victim's family, then dispatches an available victim specialist from the nearest of the FBI's 56 field offices. “The FBI uses an integrative approach to hostage cases that not only supports individuals and their families but also synchronizes the investigative and operational elements working to get the person back,” said Carl Dickens, an operational psychologist in the program. The program helps to counsel the family, assists with emergency expenses, assesses the victim's responses, prepares

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for support of the victim after release, and notifies the family of legal proceedings (FBI, 2014, p. 28).

President Barack Obama's administration (2009–2017) used these capacities as evidence for a more virtuous official U.S. involvement in foreign taking of American hostages. However, the criticisms continued in 2015, such as by Barak Barfi, a former journalist involved with some of the victims of the Islamic State (often journalists, including Steve Sotloff, who was kidnapped in August 2013, and beheaded in September 2014). He directed his criticisms at the administration's policy and the practices of the government's agents or public servants. His criticisms of the administration's policy focused on passivity:

In the last 10 months, the Islamic State has brutally executed four American hostages. As Americans died, their government was powerless to stop the slaying. For while European governments tirelessly toiled to secure the release of European hostages, President Barack Obama's administration's passive approach doomed their American cellmates...The White House did not do enough to rescue the four Americans. During Steve's imprisonment, it rarely worked with the hostages' families, kept them in the dark, and was essentially passive, rather than discussing ways to secure their release. And though the White House finally authorized an extraction attempt in late June 2014, it waited far too long to do so.

(Barfi, 2015)

Barfi's criticisms of the government's practices blamed misplaced priorities:

The U.S. government's principal channels with the four families largely consisted of mid-level officials from the Federal Bureau of Investigation and the State Department's Bureau of Consular Affairs. The FBI was useless. Its tasks were alternately to extract information and to comfort the family. It never shared intelligence. One European hostage, who was incarcerated with the Americans and subsequently released, told me he was shocked that the FBI seemed more interested in gathering evidence to prosecute the hostage-takers than it was in locating the Americans. Our lead agent misled me on several occasions, employing convoluted legalisms that would have impressed the greatest Talmudic scholars... The State Department was no better. When the mother of one of the hostages requested a senior point of contact at the White House, a State Department official rebuked her for going over her head. When Steve's father asked that I attend a government meeting, a consular official claimed the room was too small.

(Barfi, 2015)

Public criticisms did encourage a change of policy: on June 24, 2015, President Obama announced an explicit change of policy, allowing families to negotiate private ransoms with official help, although the U.S. government would not make direct "concessions":

I am reaffirming that the United States government will not make concessions, such as paying ransom, to terrorist groups holding American hostages...I

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firmly believe that the United States government paying ransom to terrorists risks endangering more Americans and funding the very terrorism that we're trying to stop. And so I firmly believe that our policy ultimately puts fewer Americans at risk. At the same time, we are clarifying that our policy does not prevent communication with hostage-takers—by our government, the families of hostages, or third parties who help these families. And, when appropriate, our government may assist these families and private efforts in those communications—in part, to ensure the safety of family members and to make sure that they're not defrauded.

(United States, White House, 2015)

Obama revealed the creation of

- ✎ A Hostage Response Group under the National Security Council (NSC)
- ✎ A “Special Presidential Envoy for Hostage Affairs, who will be focused solely on leading our diplomatic efforts with other countries to bring our people home.”
- ✎ A Hostage Recovery Fusion Cell at FBI headquarters in the capital, with officers from the Department of State, Department of Defense, Treasury, and Central Intelligence Agency.
- ✎ A family advocate: “Our new fusion cell will include a person dedicated to coordinating the support families get from the government. This coordinator will ensure that we communicate with families better, with one clear voice, and that families get information that is timely and accurate. Working with the intelligence community, we will be sharing more intelligence with families. And this coordinator will be the family’s voice within government—making sure that when decisions are made about their loved ones, their concerns are front and center.”
- ✎ “A new official in the intelligence community to be responsible for coordinating the collection, analysis and rapid dissemination of intelligence related to American hostages so we can act on that intelligence quickly.” (United States, White House, 2015)

Lisa Monaco, Obama’s counterterrorism adviser, clarified that the new policy and capacities allowed for official communications, and official facilitation of private communications, with the hostage-takers, even as it continued to prohibit the official payment of ransoms: “I want to take issue with the term ‘facilitate’, [the new system] will not facilitate ransom payments, it will give the families advice... No concessions does not mean no communications” (Roberts, 2015).

Anonymous U.S. officials claim that more than 70 American persons were released from hostage after the change in policy in June 2015, through about August 2016, when more than 12 remained to be released (Goldman, 2016).

The Obama administration’s policy of communications without concessions has been challenged by political opponents, who point to the transfer

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of \$400 million in cash by aircraft to Iran (designated by the United States as a state sponsor of terrorism since 1984), coincident in January 2016 with the implementation of a U.S.-Iranian agreement for Iran to limit its nuclear program, and with Iran's release of five Americans. Opponents have charged that the payment was a ransom. Officially, the administration asserts that the cash was the first installment in the resolution of a longer-term dispute about the United States freezing Iranian assets during the Iranian revolution in 1979, and the transfer was made in cash because the two countries have no banking relationship. The White House press secretary (John Earnest) said: "Let me be clear, the United States does not pay ransom for hostages." However, later, the State Department's spokesman admitted that it had delayed the transfer of the money until it was sure that the first three Americans had left Iran, although it still denied that this amounted to a "ransom" (Morello, 2016a; Shear, 2016). At the least, this dispute illustrates the political risks of navigating policies between no communications and no concessions.

No: New Terrorists Are Less Willing to Concede

While we should negotiate (in the sense of communicate) with all terrorists, we should not necessarily concede anything. Meanwhile, religious terrorists tend to make demands that are unacceptable to outsiders (the majority of people, given the exclusive in-groups that terrorists tend to form), while religious terrorists tend to assert inflexibility on their demands.

Without anything to concede, negotiations become more difficult, and may be described as ultimately pointless.

The literature provides strong consensus for these observations, although the explanations are varied, and the consensus has stimulated push-back against any assumption that new terrorists are absolutely averse to negotiations. For instance, Seth Cantey found some implicit openness to negotiation in some of the content of the magazines published by al-Qa'ida and ISIL, although those magazines are dominated by stark intransigence (Cantey, 2017). Some have observed that new terrorists are less negotiable (Dolnik and Fitzgerald, 2008, p. 15), while contradictorily suggesting practically no difference between old and new terrorists: "Contrary to public expectation, the 'new terrorist' hostage-takers are not delusional fanatics who claim to speak directly to God and who lack the capability to engage in rational conversation; they are highly politically aware, understand the principle of quid pro quo, and have a set of goals and expectations with regard to the outcome of the stand-off" (Dolnik and Fitzgerald, 2011, p. 273). These particular authors offer as evidence some data from U.S. criminal hostage negotiations: CINT protocols worked in 95% of cases through 2000 (Dolnik and Fitzgerald, 2011, p. 269). However, this is a false analogy: nonterrorist hostage-takings are not analogous in motivations, hostage numbers, hostage-taker numbers, violence, or duration (see [Chapter 3](#)). Very few nonterrorist hostage-takers are murderous or suicidal; they usually arise after failed robberies or domestic violence. By one early analysis of terrorism during the acceleration of political-ideological

terrorism, in 94% of HBT incidents, the perpetrators were willing to give up their lives, although in only 1% of cases were they determined to give up their lives (ITERATE data, in Corsi, 1981).

Dolnik and Fitzgerald suggested that new terrorists “understand the principle of *quid pro quo*,” but Dolnik and Fitzgerald seem overly optimistic. Some Jihadis have taken hostages with intent to kill eventually; in these cases, hostage-taking was simply a means for attracting attention for a longer period of time before the final killings, and the hostage-takers had no intent to concede. Al Qa’ida itself refuted claims that hostage-taking must end with concessions: “History is full of facts proving the opposite. Many operations by the Mafia, or the Mujahideen were successful.” Al Qa’ida drew attention to Shamil Basayev’s operation against the Moscow theater in 2002, which ended in an official assault, without any concessions, after the long duration of the crisis, and its great death toll drew lots of attention, which Jihadis considered good for the cause (Al Qa’ida, 2004).

Dolnik and Fitzgerald noted fairly that hostage-taking is a signal by terrorists that they are open to negotiations. “In fact, the sole act of deliberate capture of hostages in the barricade scenario is in itself an expression of confidence on behalf of the terrorists that negotiating terms is possible” (Dolnik and Fitzgerald, 2011, p. 272). However, in response to recent failures of negotiation with Jihadi hostage-takers, some officials have urged shorter negotiation and quicker assault. For instance, the coroner for New South Wales in Australia criticized the delay before the police assaulted Man Haron Monis—an Iranian asylum-seeker, who took hostages in a café in Sidney in 2014, and killed one of them, 10 minutes before an assault in which he and another hostage were killed. An Australian negotiator pushed back, pointing out that “a rigid policy of non-negotiation and police aggression is potentially dangerous.” However, “a rigid policy” is a straw man. He went on to state that “Attempts to negotiate with terrorists therefore appear to be worthwhile,” but this is platitudinous (Roberts, 2017). Sometimes assault becomes more worthwhile than negotiation. Some Jihadis take hostages to draw out the crisis with no intent to negotiate, a previously unadmitted category of hostage-taking, which we term “irreconcilable hostage-taking,” in which the hostage-takers are intent on killing hostages whatever anybody else does. In this case, the negotiation would be pointless, except to clarify the pointlessness or to buy time to prepare for an assault. The dilemmas of an assault are discussed in [Chapter 12](#). The need to use force against an irreconcilable enemy is ignored by theorists who assume or observe that all new terrorists are negotiable—in fact, history already shows that not all terrorists are taking hostages with intent to negotiate for a peaceful outcome.

In any case, whether or not the terrorist is open to negotiation does not mean that the other side should negotiate, if it cannot accept or change the terrorist’s demands.

We conclude that every hostage-taking deserves negotiation (at least in the sense of opening communications), at least in order to establish that a satisfactory solution would not be achievable by negotiation (as in the situations we categorize as “irreconcilable hostage-taking”), when negotiation should focus

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on other objectives, such as to help the preparations for assault, as described in [Chapter 11](#).

Yes: Negotiate for Lesser Goals

Even if the official side cannot consider concession of the initial demands, it could offer minor concessions on the way to a resolution. Negotiating for lesser goals is taught by the FBI as a way to get to a resolution, or at least to prepare the other side for a resolution:

These are all standard tactics of hostage negotiation: to minimize the consequences the perpetrator will face once the siege is over, and to assure him that he won't be hurt if he surrenders. The other essential part of the message is that harming someone will only make matters worse. Even so, there are times when playing it by the book won't get the job done, and when a more experienced negotiator might be more willing to improvise.

(Noesner, 2011, pp. 4–5)

Even if the terrorists appear unwilling to concede, some commentators have advised the official side to communicate its own terms: “negotiation is inherent in the hostage situation. This is not to suggest that governments should cave in and ask terrorists to name their price. Rather, it means that since negotiation is implicit in the attempt to secure the hostage release, government should name its price and should seek to shift the agenda to a search for favorable terms” (Zartman, 1990, p. 165).

In hostage crises, prisoners tend to be exchanged on the condition that at least one of the hostage-takers' demands will be met to some extent (Zartman, 1990, p. 163, p. 173). Thus, officials should realistically expect to gain concessions from the opposing side if they agree to grant the opposing side concessions at least to a certain extent (Zartman, 1990, pp. 165–166).

This communication is productive if it encourages the other side to allow a concession that it had not previously considered: “Although statistics show clearly that giving in to terrorists' demands increases the likelihood of future incidents, meeting these demands through redefined formulas for lesser, acceptable terms of trade do not appear to have the same effect” (Zartman, 1990, pp. 175–176).

No: Don't Negotiate If Rescue Is Impossible

Some have urged pragmatism about whether to negotiate, essentially choosing on a case-by-case basis. This pragmatism leaves the practitioner with looser, more subjective guidelines than an absolute proscription on negotiating.

However, loose allowance, or waiting on a case-by-case basis, is not necessarily useful to the negotiator's preparations or even implementation. Helpfully, one analyst of old terrorism proscribed negotiating under two conditions:

Yes: Negotiate If Rescue Seems Especially Difficult

1. If the victim cannot be rescued (perhaps because the victim's location will never be discovered or reached)
2. If the prevention of future imitative cases remains absolutely impossible

Under these two necessary conditions, negotiation would encourage more incidents, so it should be eschewed (Hudson, 1989, p. 323).

Yes: Negotiate If Rescue Seems Especially Difficult

By contrast, other commentators have urged more negotiation if the chances of a successful rescue or assault decline. This decline could occur because the hostage-takers become more militarily capable, the official forces become less military capable, or the terrorists have more time to prepare to defend themselves. In summary, the principle is that negotiation becomes unavoidable when the hostage-takers become unassailable (all other things equal).

The immediate reaction to the surge in terrorist hostage-taking in the 1960s was to negotiate, which encouraged more hostage-taking, so, by the mid-1970s, First World governments (we now know them as developed world governments) were preparing and using more military options. Their capabilities have generally remained high. However, by the mid-1980s, Second World (developing world) counterterrorist units had proven less successful—epitomized by the Egyptian assault on an Egypt Air Boeing 737, in which most passengers died, on November 23, 1985. While these governments had become less risk-averse, terrorists had learned better how to defend themselves, and to increase the risks to hostages, leading to a return to negotiating (Hudson, 1989, p. 327).

As soon as the 1980s, analysts warned that governments should negotiate in any HBT because the sites were usually highly exposed (usually airliners or embassies): such exposure raised the risks to the hostage-takers, and should raise their interests and opportunities for negotiations (Hudson, 1989, p. 232).

At the same time, the hostage-takers, given time, skills, and materials, can defend airliners and embassies easily, lowering the risks to themselves, and increasing their confidence in getting what they want from authorities. An airliner can be defended by wiring the passengers and exits with explosives, removing emergency chutes, hooding hostages, and keeping one terrorist capable of flying. Most hostage takers have survived; even when arrested, they were often soon released (Hudson, 1989, p. 333). These analysts reassured governments that in most HBT situations, governmental concessions would not encourage imitation, because terrorists realize that each situation is different (Hudson, 1989, p. 323).

These expectations hold for some new terrorists, too: certainly Al Qa'ida sought negotiation from "public kidnapping" if the hostage-takers are prepared to defend the situation:

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This is when hostages are publicly detained in a known location. The government surrounds the location and conducts negotiations...A target must be suitably chosen, to force the government to achieve your goals. Therefore, it is mandatory to make sure the kidnapped individuals are important and influential. [Then gather] enough information on the location and the people inside it.

(Al Qa'ida, 2004)

Al Qa'ida identifies buildings, buses, road convoys, and airplanes as targets. "A connecting flight is a better option. Transit areas are more vulnerable where little inspection is provided" (Al Qa'ida, 2004).

In addition to considering the terrorist's acquisition of weapons that increase their defensive capacity, we should consider their deterrent capacity, such as a remote terrorist threat to attack somewhere more vulnerable if the official side should assault the hostage-takers locally. This deterrent capacity increases with certain weapons that are difficult to defend. By the 1980s, analysts already foresaw terrorist acquisition of weapons of mass destruction (WMDs), and considered negotiation more imperative in such an eventuality (Hudson, 1989, p. 324). This is a scenario that has increased in likelihood, given new terrorists' increasing interest in WMDs of all types, including nuclear weapons. If one were to follow the principle that one should be more open to negotiate with an enemy with more capabilities, one should be more willing to negotiate with an enemy with WMDs.

However, one should still assess whether the enemy has intent to negotiate. If the enemy has no such intent, (if they are "irreconcilable," as we explained earlier), the enemy would delay the inevitable use of WMDs, but would ultimately use them, so negotiations are pointless, except to gain time to prepare an assault—the only official solution is force, in order to reduce the enemy's capabilities.

Yes: Negotiate with Relative Moderates or Defectors

A proscription against negotiating with terrorists in general might include an allowance for negotiating with defectors or moderates.

Negotiation has utilitarian benefits. It damages the terrorist group when it acts as an incentive for defectors/splinters from the group. For instance, some have urged the United States to negotiate with those leaders from al-Nusra Front (based in Syria) who repudiate Jihadism and focus on fighting the regime of Bashar Assad, while the United States should sustain military actions against leaders who do not renounce their links with Al Qa'ida. In 2014, al-Nusra distanced itself from both Al Qa'ida and Islamic State of Iraq and the Levant, asserted its focus on the Assad regime, promised to refrain from attacking the West, sought removal from terrorist designation, and released peacekeepers whom it had kidnapped from their peacekeeping duties in the Golan (Watts, 2015).

Yes, If through Third-Party Intermediaries (TPIs)

Governments can use TPIs to escape their own prohibitions on negotiations with terrorists. Governments with a no-negotiation policy are more likely to use TPIs if the government can claim deniability.

For example, since the 1980s, both the Colombian and U.S. governments have used the International Committee of Red Cross as a TPI in negotiations with the FARC (Revolutionary Armed Forces of Colombia; *Fuerzas Armadas Revolucionarias de Colombia*)—a designated terrorist group based in Columbia, which has often detained domestic and foreign citizens for years at a time.

Since the 1990s, the FBI has been using TPIs regularly, although the family of the victim has the final say. Additionally, families might procure private security negotiators (many of whom are retired law enforcement negotiators), who in turn usually cooperate well with official negotiators.

A separate argument about TPIs is how to use TPIs to build rapport and trust, if the other side is too distrusting or hateful of the official side to negotiate directly. This is an issue of how to use TPIs—separate from the issue of whether to use TPIs, so we consider the separate issue in [Chapter 6](#).

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