

**This is a working paper prepared for a December 4, 2006 PON symposium on negotiation and nonviolent action. It was created by a student working group.
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Negotiation & Nonviolent Action Briefing Materials

Introduction

On December 4, 2006, the Program on Negotiation will sponsor a symposium on negotiation and nonviolent action, entitled *Negotiation: the Hidden Dimension of the Nonviolent Struggles of our Era*. The symposium is intended to heighten awareness of the two frameworks for dealing with conflict, illuminating differences as well as shared values and strategies. It is our hope that the symposium will show how both negotiation and nonviolent action have been used to deal with some of the most intractable conflicts - including political struggles in South Africa and India, and civil rights conflicts in the US – and how those tools can be used effectively today. Special guest Ela Gandhi will engage in a dialogue with Bill Ury for the first part of the symposium, honoring her grandfather's work and those who were inspired by him, and sharing thoughts on negotiation and nonviolent action as strategic tools for dealing with conflict.

The second part of the symposium will look forward, investigating how we can implement lessons from the past into current and future conflicts. Jim Sebenius will facilitate this discussion, which will include other faculty (Adil Najam) as well as nonviolent action experts (George Lakey and Maria Stephen).

Because we do not want the discussion to be wholly theoretical or abstract, we thought it would be helpful to have a particular contemporary struggle on which to focus, and (at Bill Ury's suggestion) we have worked with a student group to prepare briefing materials relating to how negotiation experts and nonviolent action experts might respond to the challenge of terrorism.

The Challenge of Confronting Terrorism

The escalation of terrorist activities is perhaps the most trying political challenge of our time. In recent years, terrorist acts have resulted in a huge loss of lives, as well as extraordinary economic costs. Responding to and preventing acts of terrorism has risen to the top of the domestic and foreign policy agendas of the most powerful countries in the world. Terrorism is both a catalyst for increased arms proliferation and a weapon used by extremist groups. Some argue that the fight against terrorism is responsible for the growing polarization between the West and the Muslim World, while others suggest that it is a byproduct of an ongoing schism. While the use of terrorism is a contemporary issue, it's important to note that for centuries, armed individuals, supported by a host of entities including governments, political parties, and insurgency movements, have used the tactic of inciting terror amongst civilian populations.

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In recent years, terrorism has touched the lives of all Americans. After the terrorist attacks of September 11, 2001, the United States Government declared a global “War on Terror” in an effort to end terrorism and the threat posed by extremists around the world. The United States has since initiated military offensives in Afghanistan and in Iraq under the banner of responding to the threat of terrorism.

Defining Terrorism

For many, terrorism is not a goal but rather a methodology at the service of an ideology. Some believe that those who engage in terrorism are innately violent and evil individuals, while some regard terrorism as one tactic chosen from several options available to individuals and groups who have decided to use physical force against their enemy. Similar to those waging conventional military struggle or guerilla warfare, terrorism in this sense can be understood as a “means of conducting political conflict and is a response to the belief that some form of oppression must be fought.”¹ Yet others believe that terrorism is a way to make a symbolic statement when all other means for voicing concerns have been exhausted. Defining terrorism also leads to debates such as if and when the use of violence is legitimate, and whether a certain scale of violence is required to move the classification from violence to terrorism. Certainly, the list of contradicting definitions for and concepts related to terrorism is extensive.

However, examining and agreeing on the meaning of terrorism is not the purpose of the symposium. For the purpose of this project, we propose the **working definition of terrorism to be violence committed against civilians by groups or individuals for political, ideological, or religious aims.** The purpose of terrorism is generally understood to be the disruption of social order and creation of a profound sense of fear amongst the populace—fear that can paralyze people and cause them to lose trust in their government, in the broader international framework, and in one another as individuals.

Responses to Terrorism

As the threat of terrorism becomes more pressing, intellectuals, policymakers and the public are wrestling with how to best engage in such a divisive challenge. Are violent responses to terrorist acts the most salient solution? If so, who should carry them out? What about nonviolent responses to terrorism? Is diplomacy a viable option for engaging terrorists? Central to this symposium:

- What do the principles and lessons learned from negotiation have to teach us about dealing with the issue of terrorism?
- What can the insights gleaned from the field of nonviolent action tell us about addressing the challenges of terrorism in our world today?

PON and the Symposium

¹ Hardy Merriman & Jack DuVall, “Dissolving Terrorism at Its Roots,” 2006, page 1.

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Over the past year, these important questions have been the topic of discussion at the Program on Negotiation (PON) at Harvard in an effort to examine the intersection of negotiation and nonviolent action. Through a series of events and student working group meetings, we have formulated questions that are especially relevant to understanding the synergies between these two fields. In order to construct a framework for the dialogue that will transpire at this seminar, we have provided a brief overview of each field --negotiation and nonviolent action-- and how each may approach a contemporary conflict in which the use of terrorism is prominent.

Negotiation

Negotiation, defined as “back-and-forth communication to reach an agreement between two or more parties with some interests that are shared and others that may conflict or simply be different,” is one of the most basic forms of human interaction.² Negotiations take place everyday and between everyone from government officials to guerilla fighters to ordinary civilians. Negotiation experts hold that when preparing to negotiate we must: assess our interests and those of the other parties; examine the potential alternatives to negotiation; always try to increase our Best Alternative To Negotiated Agreement (BATNA) and lower the BATNA of others; generate options for agreement; and consider how legitimacy plays into the equation as well as commitments, relationships, and communication. Negotiation theory and practice teach us that preparation is crucial, especially in trying to create situations in which power asymmetry is equilibrated. Negotiation also offers parties the opportunity to have a constructive influence on counterparts by using a strategic set of communication tools.

With regards to applying negotiation to the challenges brought on by the widespread use of terrorism, negotiation theory emphasizes the importance of creating dialogue, both within and between parties. On the other hand, the U.S. government has stated that “there is no room for negotiation or discussion”³ with individuals who utilize or support the use of terrorism, because of the immoral, unjust, and illegal aspects of terrorism. The philosophy underlying this position is that negotiating with those who employ terrorist tactics is often seen as synonymous with ‘giving in to terrorism’ and its propagation of terror. Certainly, this was evident in Russia when the Russian government refused to have dialogue with the Chechnya rebels, a proclaimed ‘terrorist group,’ after they took hundreds of hostages at a Russian school in September 2004. This tragic confrontation resulted in the deaths of hundreds of civilians.

Negotiation theorists recommend efforts to de-legitimize the use of terrorism so that parties who use terrorism as a method for meeting their goals are left with a lower BATNA and, as a result, need to negotiate with other parties to reach their goals. The United Nations and other international mediators tried to employ this tactic when they brought the Janjaweed, a recognized insurgency who has been using terrorist tactics against the civilian population in Darfur, Sudan, to agreement with the Sudanese government in late 2005.

² Bruce Patton, *Negotiation*, Chpt. 18 in *The Handbook of Dispute Resolution*, Eds. Moffitt and Bordone 2005, page 279.

³ The 9/11 Commission Report.

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Nonviolent Action

Nonviolent action is the technique of “conducting protest, resistance, and intervention without physical violence” and may be employed by “acts of omission, acts of commission, or a combination of both.”⁴ It includes disruptive acts such as boycotts and strikes as well as symbolic protests and civil disobedience.

Nonviolent action is a set of strategic techniques typically utilized in a struggle over rights or justice. Nonviolent action has over 200 methods that can be grouped into three main categories: protest/persuasion, non-cooperation, and nonviolent intervention.⁵ Those who advocate nonviolent action emphasize the importance of strategic thinking and planning in their struggles. Since acquiring political power is essential to the success of nonviolent movements, nonviolent activists heed close attention to power imbalances. They are constantly making strategic calculations to gain leverage over their opponents and maintain resilience throughout the struggle, which may endure for years. Nonviolent action theory states that those who operationalize nonviolent action are not abstaining from conflict but are instead fighting an oppressor, using a set of non-conventional nonviolent weapons.

Those who espouse nonviolent action theory and practice have put forth several ideas for how their principles apply to the use of terrorism. Some scholars say that if the needs and demands of authoritarian regimes and disaffected peoples living in oppressed societies are dealt with constructively, the capacity of terrorist actors to operate will be gravely diminished. To do this, those who espouse nonviolent action must address the oppressive conditions that terrorists exploit; they must model alternative forms of mass struggle and demonstrate their viability; and they must articulate a new discourse about nonviolent power that portrays terrorism and violence as counter productive to the cause must be developed.⁶

Others will refute the notion that nonviolent action has any applicability in extreme situations, such as those in which terrorism is involved. They will suggest that in such severe cases, violence is the only effective means to meet violence, as terrorist actors will not respond to masses of ordinary people heading to the streets or boycotting. Furthermore, it is often even unclear who the target of nonviolent action should be in contexts where terrorism is involved. For example, after the attacks on the United States on September 11th, who is the defined enemy that should be targeted by a nonviolent struggle?

The Task at Hand

The December 4 seminar is an opportunity to reflect upon and discuss the insights offered and the past lessons learned from both the fields of negotiation and nonviolent action, particularly when we think about their application to contemporary conflicts associated with terrorism. We are interested

⁴ Gene Sharp, *There are Realistic Alternatives*, 2003.

⁵ Gene Sharp, *There are Realistic Alternatives*, 2003.

⁶ Hardy Merriman & Jack DuVall, “Dissolving Terrorism at Its Roots.”

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in what each of these fields teaches us as separate schools of thought for engaging in conflict but we also want to explore how the two fields might build upon each other.

Some key questions that we hope to engage are:

- Where do nonviolent action and negotiation theory and skills meet and where do they diverge?
- How can the use of both strategies be integrated throughout a conflict?
- Is there a greater potential for a positive outcome if both strategies are employed simultaneously, or does one necessarily precede the other? Or to make it open-ended: what are the possibilities and challenges of employing the two strategies concurrently or consecutively?
- How do balance of power considerations play out in the practice of both negotiation and nonviolent action?
- At what level (official national actors, third side civilian actors, etc.) are negotiation and nonviolent action best applied in cases of terrorism?
- What overlaps exist in strategies for conflict that are focused on interests as opposed to those focused upon rights?
- When terrorism is a key factor, with whom can one negotiate?
- What does a nonviolent action struggle against terrorism even look like?

Our goal is to engage these timely questions confronting negotiation and nonviolent action. We also hope to inspire new writing and teaching in both fields and in the gray area between them, disseminate materials more broadly from both fields, and build a dialectic community that will continue to bring forth these inquiries and efforts.