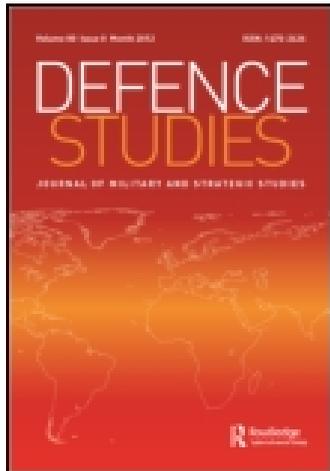


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Is it Possible and Preferable to Negotiate with Terrorists?

CARL MILLER

Introduction

Can we negotiate with terrorists? The answer seems obvious, and the case closed. We are assured that ‘the terrorists allied with Mr. bin Laden do not want a place at the table: they want to shatter the table’.¹ For President George W. Bush, ‘we’re not facing a set of grievances that can be soothed and addressed. We’re facing a radical ideology with unalterable objectives [...] and no concession, bribe, or act of appeasement would change or limit their plans for murder’.² ‘This death cult has no reason and is beyond negotiation’, *The New York Times* observed. ‘This is what makes it so frightening.’³ For Rudolph Giuliani, ‘those who practice terrorism [...] lose any right to have their cause understood by decent people and lawful nations’.⁴ Thus, too, for Lee Harris: ‘you do not make treaties with evildoers. [...] You do not try to appease them, or persuade them, or reason with them. [...] You behave with them in the same manner that you would deal with a fatal epidemic – you try to wipe it out’.⁵ The position of both sides of the conflict seems intractable. Barack Obama is clear: ‘I have never supported engagement with extremists’.⁶ US Ambassador to the United Nations Susan Rice is similarly clear: ‘we don’t negotiate with terrorists, that’s the policy of the United States’.⁷ Usamah bin-Laden, too, seems clear: ‘take note of the ground rule regarding this fight. There can be no dialogue with occupiers except through arms’.⁸ For Jan Narveson, the choice we must offer terrorists is stark: ‘the choice between getting out of here alive, though empty-handed, and getting out of here feet first – and empty-handed’.⁹

It is thus commonplace to presume that we both *cannot* and *should not* negotiate with terrorists. Negotiation is presumed impossible because

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terrorists are mad, because we share no common interest, because they are unrepresentative and because they are illegitimate. Even if negotiation were possible, it is presumed to be not in the West's interests to do so. Negotiation is considered to be ethically compromising, to confer legitimacy and to reward terrorism itself. Military options, many caution, are preferred. It is predicated on this bundle of arguments that both the possibility and preferability of negotiating with terrorists is denied.

The thesis of this essay is that these presumptions of the nature of the terrorist actor, and the West's relationship with them, are often misleading. It argues we see only the merits of our own case: our own rationality, our own right to be recognized, our own legitimacy and our own ethical rectitude. In each of these ways we have worked hard to mask the 'terrorist' and imbue them with the negative of every quality we claim for ourselves; masking also the possibility and preferability of negotiation. In contrast this essay, denying these easy dualisms, seeks a more realistic characterization of the 'terrorist' and so a more bona fide conceptualization of the prospects of negotiation. In peeling away a mask of assumptions, attitudes, fears and biases, the essay finds instead a nuanced mosaic of differing natures, interests, aims and grievances. To both the possibility and preferability of negotiating with terrorists, the answer is not an unequivocal 'no'. The case is not closed: the reality is more complex, and perhaps more promising.

A Critical Review of the Literature

There is one new book on terrorism published every six hours.¹⁰ Although numerous, the terrorism studies field is united in its common derivation from a core body of counter-insurgency thought, and the scholarship of many of the most prominent counter-terrorism authors – Rohan Gunaratna, Bruce Hoffman, Walter Laqueur, Paul Wilkinson and Marc Sageman – is invested with a common bundle of intellectual leanings and attachments. As Jenny Hocking argues, '[t]hrough the link with counter-insurgency thought, counter-terrorism is at base a military doctrine. [...] It therefore focuses on militarized responses'.¹¹ It has been and continues to be dominated by a realist approach, and to conceive of terrorists within a military vocabulary and vernacular. Core terrorism-studies thought remains open to the charge of being 'counterinsurgency masquerading as political science'.¹²

In the words of literature reviewer Jeroen Gunning, 'epistemological, methodological and political-normative problems persist'.¹³ Terrorism studies often reads as a short-term, problem-focused exercise. The prominent reviewer of terrorism studies research, Andrew Silke, considers the field 'extremely applied, and insufficiently questioning of the theoretical or

ideological assumptions informing its research'.¹⁴ Leonard Weinberg and Louise Richardson agree: 'the study of terrorism has largely been an a-theoretical under-taking'.¹⁵ In the words of social movement theorist Sidney Tarrow, 'terrorism studies' has been 'largely innocent of theoretical apparatus'.¹⁶ Silke observed in 2004 that fewer than 2% of articles published during the 1990s in the two core terrorism studies journals dealt with conceptual issues, and most of these concerned the definition of terrorism'.¹⁷

The literature has also remained anchored in a narrow empiricist, objectivizing methodology. Carlyle Theyer's literature review, for instance, notes most academic literature by terrorism experts 'was highly empirical and narrowly focused'.¹⁸ Whilst Avishag Gordon notices that between 1988 and 2001, nearly 80% of articles on terrorism occurred outside the core 'terrorism studies' journals, Thayer notes that of the articles posted in the core journal themselves, 'a close examination of their sources revealed a scant reference to any prior disciplinary body of knowledge related to political violence and terrorism'.¹⁹

The essay suggests that this fairly narrow discipline of empirical problem solving has angled the entire framework of intellectual enquiry with which the terrorist actor is, within the field, approached. There is often the 'adoption of dichotomies that depict "terrorism" as an unredeemable atrocity like no other'.²⁰ There are often uncritical constructions of the terrorist as an aberration, as unquestionably illegitimate, evil, even mad, and the construction of state as unquestionably reasonable, rational and good. Academic scholarship is often composed with the idea that, a priori, terrorists are, unproblematically, an enemy to be defeated. The adoption of this paradigm, one that points 'naturally' toward the eradication of the terrorist actor, limits our imagining of ways to engage with terrorists. See, for instance, the assumed combativeness implicit in Paul Wilkinson's *Terrorism Versus Democracy*,²¹ Gregory Gause's 'Can democracy stop terrorism?',²² Glenn Schweitzer's *A Faceless Enemy*,²³ Alison Jaggar's 'Responding to the evil of terrorism',²⁴ and Steven Simon's 'The new terrorism: securing the nation against a messianic foe'.²⁵ Thus, as Jeroen Gunning worries, 'researchers may be too embedded socially and culturally in an entity under "attack" from "others" to engage these "others" subjectively or contemplate radically different counter-terrorism tactics'.²⁶ Relying on the insight of James Blight and David Welch, the essay suggests that in this, as in any case, 'our own concepts and beliefs affect our interpretation of the behaviour of others [... our] judgements may say more about [ourselves] than about [our] targets'.²⁷

Under the influence of the underlying attitudes just described, the question of negotiation with terrorism is rarely even raised. As Harmonie Toros

notes, 'of the dozens of academic books treating terrorism, the vast majority of the research [fails] even to mention negotiations'.²⁸ Of those that do consider the question of negotiation, many only consider it in its tactical context. William Zartman only deals with the question of negotiation with 'barricaders, kidnappers, and hijackers' in 'Negotiating with terrorists'.²⁹ Similarly, Martin Hughes in 'Terror and negotiation' only considers tactical negotiation within a crisis management situation of a hijacked plane scenario.³⁰ For those that do consider strategic negotiation, many quickly deny its direct applicability to the (especially 'new' religious³¹) terrorist actor and instead explore its other applications within a counter-terrorist context. Maleiha Malik, in 'Engaging with extremists', offers a subtle method for engaging with extremist thought, but deals only with non-violent actors.³² For Jonathan Stevenson in 'Pragmatic counter-terrorism', since 'new terrorists want only to express their wrath and cripple their enemy', the treatment of negotiation in a counter-terrorism context becomes primarily a question of the 'diplomatic exigencies of building and maintaining the international coalition required to disable al-Qaida'.³³ Richard Hayes, in 'Negotiating the non-negotiable', presumes negotiation with al-Qaida is impossible because 'they have such radical impossible demands', and instead directs his attention towards negotiating with 'State Supports of Terrorism' to isolate the terrorists themselves.³⁴ Peter Neumann, in 'Negotiating with terrorists' suggests that, while negotiations with more 'traditional' groups such as Hamas are possible, for al-Qaida, the 'chances of a negotiated outcome are slim'.³⁵ Dean Pruitt unites with Neumann in maintaining a distinction between ethno-nationalist groups and al-Qaida. He concludes that 'success at mainstreaming or negotiation with [al-Qaida] is implausible, the only remaining acceptable strategy is isolation'.³⁶

Additionally, treatments of the question of negotiation with terrorists are overwhelmingly a-theoretical, stressing immediate, specific, policy-relevant concerns. Daniel Byman, in 'The decision to begin talks with terrorists' is concerned with advising on 'Asking the Right Questions', warning on 'Risks', and asking 'what do people think at home'.³⁷ Bertram Spector's 'Negotiating with villains revisited', whilst useful, is more a short list of considerations for the policymaker than an attempt at a theoretical framework. Other scholars, for instance Richardson in *What Terrorists Want* are sophisticated and empathetic in their treatment. For her, 'it must be demonstrated (rather than simply asserted) that [al-Qaida's] demands are indeed non-negotiable'.³⁸ Yet, whilst many works are more sympathetic (see, for instance, David Kilcullen in *The Accidental Guerrilla*³⁹), they examine the issue of negotiating with terrorists as only an incidental encounter within a much wider discussion.

A Reaction to the Literature: Aim, Methodology and Perspective

This essay is explicitly situated as a reaction to ‘traditional’ terrorism studies. It agrees with those theorists who problematize easy moral dualisms between the ‘good’ state and the ‘bad’ terrorist, who call for an attempt to understand the users of terroristic methods subjectively and empathetically, and caution on the need to be aware of the assumptions, fears and biases we as analysts bring to the study of terrorism and the words we use to describe them.⁴⁰ The essay strives to be theoretical, critical and multidisciplinary. In contrast to many of the previous studies on negotiating with terrorists, the aim of the essay is, using a wide array of intellectual resources, and employing a critical and empathetic perspective, to create a comprehensive and abstract theoretical model of the nature of the ‘terrorist’ actor in international relations. In doing this, it seeks to understand how this actor engages with the established international institutions, practices and attitudes of diplomacy. The first step in this endeavour is a deconstruction of the problem of negotiating with terrorists, before the focus of the essay, what it means by ‘negotiating’ with ‘terrorists’, can be critically reconstructed and defined. This is what we turn to next.

The Focus of the Essay: A Deconstruction and Reconstruction of ‘Negotiating’ with ‘Terrorists’

A Deconstruction of ‘Terrorism’

There is simply nothing approaching a consensual and unproblematical definition of terrorism. Within even a single government, there are different definitions. The Federal Bureau of Investigation (FBI) sees terrorism as ‘the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives’.⁴¹ Notice, the subtle difference between this, and the US Department of Defense’s (DOD) definition (indicated in italics) as ‘the calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are *generally political, religious, or ideological*’.⁴² As there is no domestic agreement, there is certainly no international consensus. The United Nations Office on Drugs and Crime (UNODC), in ‘Definitions of Terrorism’, argues it is clear that ‘the question of a definition of terrorism has haunted the debate among states for decades’.⁴³ Noting no terminological consensus between the 12 international conventions and protocols relating to terrorism, the UNODC’s exasperated conclusion is that terrorism is ‘the Gordian definitional knot’.⁴⁴

As there is no domestic consensus and no international consensus, there is also no academic consensus. Echoing the UNODC, Toros argues, 'the search for a definition has haunted the field of terrorism studies'.⁴⁵ Alex Schmid and Albert Jongman, in a widely cited treatment of the definition of terrorism, analysed 109 definitions, containing 22 definitional dimensions. Violence was cited in 83.5% of the definitions, political goals in 65%, the element of terror in 51% and the quality of indiscrimination in 21%.⁴⁶ Whilst this study was written in 1988, it demonstrates what is a sustained conceptual confusion that runs throughout the discussions, analyses and enquiries, both political and academic, of terrorism.

The crucial suggestion of the essay is that it no accident that there is no consensual definition of the word 'terrorism'. To understand why we must be aware that the function of language is not only to describe, but also to judge. The application of morally non-neutral words not only describe an action, but also applaud or condemn it, and in so doing, act to legitimize and delegitimize certain actions. Relying on the linguistics work of Quentin Skinner, the key implication is that the use of 'evaluative-descriptive' vocabulary is a political intervention as much as a descriptive turn of phrase.⁴⁷ The contestations over who the terrorists 'really are' are attempts to manipulate the valid criteria with which 'terrorism' can be legitimately applied. The contentions over the meaning of terrorism are 'ideological disputes through linguistic disagreements'.⁴⁸

'Terrorism' is a powerful member of the family of moral-descriptive vocabulary. The term carries, in the words of Adrien Guelke, 'a massive emotional punch. Indeed, it is probably one of the most condemnatory words in the English language'.⁴⁹ Since at least the end of the Second World War, as terrorism became a descriptor of revolutionary violence, the only universal quality attachable to the word 'terrorism' is its condemnatory function.⁵⁰ Thus, every description of something or someone as a terrorist is an attempt to delegitimize that person or act. We attach the word terrorist to things we otherwise condemn. We refuse the label terrorism to things we would otherwise applaud. In a telling example, 98% of Palestinians surveyed in a 2003 survey considered the 1994 killing of 29 Palestinians at Ibrahimi Mosque by Baruch Goldstein an act of terrorism. A total of 82% of this same sample disagreed that the killing of 21 Israelis by a Palestinian suicide bomber in Tel Aviv was terrorism.⁵¹

To define terrorism is to condemn a class of action, and to condemn a class of action, is inevitably a political act. Thus, to define terrorism is to make a political intervention as well as an attempt of description. A consensual definition of terrorism could only exist if there is global unity on the legitimate and illegitimate forms of power and violence. If you seek to

delegitimize, say, the Security Council, as Libyan leader Muammar Gaddafi did during the July 2009 Summit of the Non-aligned Movement, you brand them a 'form of terrorism'.⁵² If you seek to resist attempts other's attempts to delegitimize, you may complain, as Iranian Grand Ayatollah Ali Khamene'i did, that the United States and Israel 'are fighting Islam by giving other names to their adversary [...] they expand the meaning of terrorism so as to crush liberating movements'.⁵³ The Jamaat ul-Mujahideen Bangladesh distributed leaflets at the scenes of many of their bombings in Bangladesh in August 2005. They argued, in the wake of what most Western analysts would consider unproblematically a terrorist attack, that 'the biggest terrorist of present world [sic] is George W. Bush [...] who attacks innocent Muslims by resorting to terrorism'.⁵⁴ We must see every attempt to define terrorism in this way. It is not without political intent that the US State Department refuses the possible designation of state-based acts as terrorism. It insists that terrorism is the 'premeditated, politically motivated violence perpetrated against noncombatant targets by *subnational groups or clandestine agents*, usually intended to influence an audience' (added emphasis).⁵⁵

It serves a political interest to get others to agree to one's definition of terrorism. Joanna Mariner, in 'Trivialising terror', noticed that in 2003 the addition of three Basque nationalist groups, the Batasuna, Euskal Herritarrok and Herri Batasuna, to an official US list of terrorist groups coincided with a Spanish pledge of political and military support for the US-led 'Coalition of the Willing'. 'What are the fruits of our relationship with the United States?', Spanish Prime Minister Jose Maria Aznar asked rhetorically: 'this is one of those fruits'.⁵⁶ With even the Spanish Prime Minister implying that this designation was not the result of any objective criteria, Mariner concludes, 'one would have to be blind, as well as wilfully obtuse, not to notice the political factors surrounding last week's decision'.⁵⁷

The underlying insight here is that discourse is a war, and the word 'terrorism' functions as a weapon in this war. The act of describing something as terrorism operates within an international context of discourse and counter-discourse. The thesis of Rupert Smith's influential book *The Utility of Force* is that, since the end of the Cold War, we no longer live in a world of interstate industrial war. Instead, for Smith, we live in a time characterized by 'War Amongst the People'. This is the 'reality in which the people in the streets and houses and fields, all the people, anywhere – are the battlefield'.⁵⁸ 'The will of the people is the objective'.⁵⁹

As a powerful weapon in the intense political struggle of the Global War on Terror, the word 'terrorism' is inalienably rhetorical, and cannot function as an analytically neutral descriptor. In what Adrien Guelke calls

the 'terrorism paradox', the word 'terrorism' cannot possibly be treated as if it were a 'neutral, technical term for a particular category of violence'.⁶⁰ There is no neutral, a priori method to abstract the word 'terrorism' from the controversies and debates. Its *meaning*, the essay contends, *are* these debates themselves. In the words of Ariel Merari, 'as long as the term "terrorism" simply denotes a violent behavior which is deplorable in the eyes of the user of term, its utility is in propaganda rather than research'.⁶¹

'Terrorism' as a Mask

What happens, then, when we approach, as researchers, the analysis of 'terrorist' groups? We, the essay asserts, understand these groups differently as a result. By naming a group we attempt to identify the 'true nature' of that group: 'once assigned, the power of a name is such that the process by which the name was selected generally disappears and a series of normative associations, motives, and characteristics are attached to the named subject'.⁶² Naming is an act of power. By imposing a pattern on the world, we also manipulate that world.

'By naming, this subject becomes known in a manner which may permit certain forms of inquiry and engagement, while forbidding and excluding others.'⁶³ When a group is named a 'terrorist group', this is the, heavily propagandized, classificatory lens through which we see that group thereafter. So, even to use the words 'terrorist' and 'negotiation' together severely trammel our idea of what is possible. Eid Kabalu, a spokesman for The Moro Islamic Liberation Front (MILF), warned the administration of Philippine President Gloria Macapagal-Arroyo that the use of the label 'terrorism' would indicate that the 'government is closing its door to the peace process and [intends to] pursue a military solution'.⁶⁴ The act of naming the group as 'terrorist' was seen by MILF as an escalatory step. The word 'negotiation' similarly carries connotation. L. Paul Bremer, former Chief of the State Department's counter-terrorism programme, explained: 'we will always talk to anybody about the welfare of American hostages, but we will not negotiate because that implies making concessions'.⁶⁵

Thus, to phrase the discussion as 'negotiating' with 'terrorists' already prefigures an outcome. However, this is vitally as much to do with the use of the words as with the actors and groups these words name and describe. The key argument here is that the name 'terrorist' provides a truth, but never the full truth of the actor.⁶⁶ Calling a group 'terrorist' tells us something about their tactics, but reducing them to these tactics is, as Lawrence Freedman argues, as meaningful as calling the United States a 'deterior' during the Cold War.⁶⁷ As Michael Bhatia argues, 'far too often complex local variations, motives, histories and inter-relationships are lost in the

application of meta-narratives or dominant academic approaches'.⁶⁸ This essay holds that the name 'terrorist' has come to obscure more than it describes. It acts to group monolithically a nuanced and subtle and complex mosaic by investing them all with the same assumed characteristics. It acts to obscure complex opportunities for engagement. Simply calling a group 'terrorist' denies the possibility of negotiation. With this critical recognition, the essay now moves to reconstruct the problem of negotiating with terrorists, and so form the focus of this essay.

A Reconstruction of the 'Terrorist' as Takfiri Insurgent

Beginning with the World Trade Centre bombings in 1993, influential terrorism analysts, such as Walter Laqueur in *The New Terrorism*⁶⁹ and Paul Bremer in 'A new strategy for the new face of terrorism',⁷⁰ stressed that a qualitatively new brand of radical Islamic terrorism was emerging. David Rapoport argued that terrorism historically evolved in 'waves', with 'each wave animated by a shared "energy"'.⁷¹ Today, Rapoport argues, the ascension of the current wave of religious terrorism replaces the 'New Left' wave of the 1970s. For many, although notably not all, 9/11 was a striking confirmation of the 'new terrorism' hypothesis.⁷² For Jonathan Stevenson, for instance, 'by their sheer scale, the 11 September attacks drew a bright line between the "new terrorism" practised by al-Qaeda and the "old terrorism" exemplified by groups like the Palestine Liberation Organisation [and the] Provisional Irish Republican Army'.⁷³

The essay constrains its scope to these 'new' religious terrorists because it is this 'new wave' that is understood to be particularly unsuited to negotiation. Different aims, organizational structures, ideologies and potential lethality are all variously advanced as reasons why 'new' terrorists are different, and why negotiation is implausible. Bruce Hoffman in 'Change and continuity in terrorism' distinguishes new terrorism from old terrorism in three fundamental ways: their goals are less tangible, they are globally networked and they tend to be united by common religious fanaticism.⁷⁴ With variations on this formulation, many analysts, in agreement with Hoffman, rejected comparisons with earlier groups, and rejected – be it the 1998 Good Friday Agreement with the Provisional IRA or the Khasavyurt Accord in Chechnya – earlier precedents of successful negotiation with terrorists. Thus, 'knowledge of the "old" or traditional terrorism is sometimes considered irrelevant at best, and obsolete and anachronistic, even harmful, at worst'.⁷⁵ For instance, for Pruitt, 'at present their strong religious and political ideology and their decentralized structure makes them unlikely candidates for a negotiated settlement'.⁷⁶ Bremer, likewise, argues that 'they are not constrained by secular political concerns. Their

objective is not to influence, but to kill, and in large numbers. [...] It is just this combination – religious motivation and a desire to inflict catastrophic damage – that is new to terrorism’.⁷⁷

The group that is exemplified as the epitome of this new terrorism, and the group with which this essay is principally concerned, is al-Qaeda (hereafter AQ). The essay’s understanding of AQ is borrowed from Kilcullen’s formulation of the ‘Globalized Insurgency’. The Global War on Terror is best understood as a large-scale, transnationalized insurgency, and AQ and the wider ‘*takfiri*’ (defined below) extremist movement are best understood as insurgents: ‘members of an organised movement that aims at overthrowing the political order within a given territory’.⁷⁸ In this conception, the contested territory is the entire world, and the challenged political order is the established international system itself. AQ’s role within the insurgency is as “inciter in chief” – *al talia al ummah* – the vanguard of the *ummah* – a revolutionary party seeking to mobilise and build mass consciousness through spectacular acts of resistance’, working through affiliates ‘to co-opt and aggregate the effects of multiple, diverse local actors in more than 60 countries’.⁷⁹ The essay is thus concerned with this AQ-led network: not one group, but a diverse, disparate, networked fabric of over 40 organizations that have announced their formation and pledged allegiance to the ‘al-Qaida core’ and its leaders Usamah bin-Laden and Ayman al-Zawahiri. These include (non-exhaustively): al-Qaida in the Arabian Peninsula; al-Qaida in the Islamic Maghreb; Jema’ah Islamiyah; Abu Sayyaf Group; al-Qaeda in Syria; The Islamic Revenge Cells; Brigades of Kurdistan; Ansar al-Qaeda; al-Qaeda in Bilad al-Sham (Syria); The Islamic al-Tawhid Group; al-Qaeda Organization (Europe); Abu-Bakr al-Siddiq and al-Qaeda Organization in Lebanon.⁸⁰

This network is grouped by their broad strategic aims – insurgency – rather than their use of the tactic of terrorism. These insurgents use a combination of ‘subversion, terrorism, guerrilla warfare and propaganda’ to achieve their aims.⁸¹ Terrorism, broadly understood as an act of political violence, directly targeting either the people or the state, yet with the indirect aim of imposing a will on a population (in contestation of the state) through the psychological lever of ‘sowing fear’, is one of a number of tactical options that these insurgents use.⁸² Here, the essay underlines that terrorism, as a distinct member of a wider universe of insurgent violence, is not as a freely made choice, but a tactic driven by the situation.⁸³ As Ariel Merari argues, ‘in reality the form of insurgency – terrorism, guerrilla, mass-protest, or any combination of these – is mainly determined by objective conditions rather than by strategic conceptions of the insurgents’.⁸⁴ The key for insurgents is what can be done realistically to promote

the political cause, and ‘because terrorism is the lowest, least demanding form of insurgency, it has always been used simultaneously with other strategies’.⁸⁵ Rather than reducing the AQ-led insurgency to one of their tactical choices – terrorism – the essay adopts Kilcullen’s suggested designation of *takfiri* extremism. ‘*Takfir*’ means to charge someone with unbelief and deem them to be an infidel, and is used as the signature analytical device by AQ to legitimate their violence, in contravention of the prevailing strictures of Islamic law, against non-Muslims and apostate Muslims.⁸⁶ ‘*Takfiri* extremist’ more realistically discriminates the AQ-led insurgency from other groups, than ‘terrorist’. As most scholars still use the denotation AQ, the essay uses it hereafter to refer to the web of *takfiri* insurgent affiliates of which it is composed.

Negotiating with the Takfiri Insurgency

Specifically, the question of negotiating with *takfiri* extremists is a strategic question of the use of a specific function of diplomacy – a formal dialogue – as a tool of strategic conflict resolution. By ‘formal dialogue’ is meant ‘a joint decision making process involving interactive communication in which parties that lack identical interests attempt to reach agreement’.⁸⁷ By ‘strategic’ the essay delineates between negotiation as tactical tool within a wider conflict – i.e. plane hijackings and hostage scenarios – and as a strategic tool to resolve the conflict itself. Negotiation is understood to be a ‘mixed-motive’ game, operating under Hedley Bull’s ‘assumption of at least the possibility that they have common interests’.⁸⁸ The refusal to negotiate is understood to not be a refusal that is intrinsic to the negotiation itself, i.e. a ‘hard-bargaining’ tactic ‘intended only to extract additional concessions from the rival in exchange for agreeing to negotiate’, but rather a refusal to begin talks entirely.⁸⁹ Thus, the question of negotiation is the decision on whether the problem concerned must be confronted in an entirely different way.

Structure of the Essay: Rationality, Viability, Representativeness, Legitimacy and Preferability

How can the question of negotiating with the *takfiri* insurgency be approached? The essay will proceed by asking five questions: is the *takfiri* insurgency rational, is it viable, is it representative, is it legitimate, and, even if it is, is it preferable to negotiate? These questions are thus presented as being the fundamental requisites that must be satisfied if negotiation is to take place. The first four challenges must be satisfied for negotiation to be considered possible, the last for it to be considered preferable. In each section the essay will first present the ‘problem’ – an explanation for

why requisite is considered essential, and then present a ‘response’ to the problem.

Each argument that denies the possibility and preferability of negotiation, the essay contends, relies on answering one or more of these questions with ‘no’. In confronting these challenges, the essay hopes unpack the bundle of assumed characteristics of the *takfiri* insurgent on which every argument against negotiation relies. It is to, then, an interrogation of whether the nature of the *takfiri* insurgent is *actually* what ‘no-negotiation’ arguments claim it is that the essay now turns.

Rational?

The Problem of Rationality

The more incapable of reason that we think terrorist actors are, the more likely we are to resort to military solutions, and the less likely to try to employ diplomatic ones. The research of Emily Pronin *et al.* in ‘Bombing versus negotiating’, explains that a key hurdle to negotiation is not specifically that we disagree with our opponent, but that we attribute the reason for the disagreement to the other party’s biased and irrational judgements. Participants in their study were more likely to advocate military actions over bilateral diplomacy if the terrorist was portrayed as irrational rather than rational, demonstrating that ‘the degree of bias or rationality that people impute to terrorists influences the types of strategies that they advocate for combating terrorism’.⁹⁰ In illustration, in Birmingham on 21 November 1974, 21 people were killed and 162 injured by bombs deployed by the Provisional Irish Republican Army. Roy Jenkins, then British Home Secretary, described his reaction to these bombings – the institution of The Prevention of Terrorism Act – as a ‘draconian measure’, explaining that ‘he had given up trying to *understand* the motives of such people’.⁹¹

Firstly, and briefly, a disambiguation of ‘rationality’ is required. A number scholars, e.g. Max Abrahms in ‘Why terrorism does not work’, argue that because terrorism ‘does not work’, ‘the data challenge the dominant scholarly opinion that terrorism is strategically rational behavior’.⁹² However, Abrahms uses what Herbert Simon calls ‘substantive rationality’.⁹³ Substantive rationality is based on the achievement of goals, whilst, by contrast, the type of rationality this essay is interested in, ‘procedural rationality’, ‘makes no claim that the actor correctly anticipates the consequences of his decision’ and depends only on ‘the [thought] process that generated it’.⁹⁴ An actor that chooses a strategy likely to fail can be procedurally, if not substantially, rational.

Many commentators lay emphasis on the procedural irrationality of the *takfiri* insurgency, and argue that this precludes negotiation. Walter Laqueur, for example, characterizes the ‘new terrorists’ as religious fanatics who suffer from delusion and persecution mania.⁹⁵ For Lee Harris, ‘9-11 was the enactment of a fantasy’.⁹⁶ ‘Violence was not used for political purpose,’ Harris hypothesizes, ‘rather it is violence advanced to fulfil personal and collective fantasies.’⁹⁷ This irrationality is advanced as the reason for why negotiation is impossible. Giuliani, too, presents the challenge of rationality: ‘let those who say that we must understand the reasons for terrorism [...] explain those insane, maniacal reasons to the children who will grow up without fathers and mothers’.⁹⁸

The charge of the irrationality of *takfiri* extremists is often bundled together with a stress on their religious fanaticism. The ‘irrational–fanatical religious’ is contrasted with the ‘rational–political’. AQ’s apparent unflinching attachment to unearthly millennial goals are understood to make them fundamentally impervious to logical argumentum. Jonathan Stevenson typifies this view: ‘what drives [bin-Laden] to kill is essentially religious hatred’.⁹⁹ ‘Old terrorists are looking to bargain; new terrorists want only to express their wrath and cripple their enemy.’¹⁰⁰ For Simon, in ‘Securing against a messianic foe’, ‘the violent imagery embedded in their sacred texts and the centrality of sacrifice in their liturgical traditions establish the legitimacy of killing as an act of worship with redemptive qualities’.¹⁰¹ This, he argues, lies at the root of an AQ ideology – which is essentially eschatological, and closed to logical argument.

The nature of the ‘AQ as mad’ explanation is to treat terrorism as pathology: an illness or disease. This, the psychopathological perspective, portrays terrorism as a ‘disease with a definite etiology, developmental trajectory, and consequences’.¹⁰² This model ‘implies that “terrorists” should be demarcated from non-terrorists by their *internal* psychological make-up, that is, their personality traits, motivations, and socialization history’.¹⁰³ Abraham Kaplan’s explanation typifies the psychopathological position. In his explanation of the causes of terrorism, whilst he concedes that ‘reasons’ may include broader grievance-drivers, the ‘causes’ ‘must be sought in the psychopathology of the assassin’.¹⁰⁴ More recently, Michael Gottschalk and Simon Gottschalk have argued that a sample of 90 jailed Middle Eastern terrorists showed the shared trait of ‘pathological hatred’. The existence of this pathology means that ‘rather than using violence against innocent civilians to accomplish *rational* political ends, we suggest today’s terrorists use *rational* political goals as a convenient means to inflict violence against innocent civilians’ (added emphasis).¹⁰⁵

Response

Do AQ commit seemingly mad acts for rational reasons, or deploy seemingly rational reasons as for mad acts? Especially in the wake of the 9/11 attacks, there was the prevailing impression that the perpetrators must be mad to hate America so intensely. Edward Djerejian epitomizes this attitude: ‘who has anything against life, liberty and the pursuit of happiness?’¹⁰⁶ There was, consequently, a pressure on media commentators, politicians and academics to *simply* and *only* dismiss the motivations of these attacks as mad. Booth and Dunne complained in 2002 that to ‘seek an explanation for the attacks that is more penetrating than simply asserting the nihilistic mindsets of the perpetrators, is considered to be tantamount to being sympathetic to the terrorists’.¹⁰⁷ Michael Bhatia, too, complains that, even today, ‘explanation is identified as exoneration’.¹⁰⁸ With CampusWatch listing academics accused of understating the terrorist threat, and Lynne Cheney sponsoring a report entitled *How Our Universities are Failing America*, there was political pressure on commentators not to look any deeper in the motivations for the attacks other than a superficial and assumed madness.¹⁰⁹

Despite this pressure, a number of authoritative literature views have denied the empirical basis for psychopathological explanations. The two most significant scholarly reviews of the psychopathology position, Ray Corrado¹¹⁰ and Silke¹¹¹ both agree that evidence supporting terrorist normality is more plentiful and of better quality. For Clarke McCauley,

the results of [pathological] investigations take several feet of shelf space, but are easy to summarize. The terrorists did not differ from the comparison group of non-terrorists in any substantial way; in particular, the terrorists did not show higher rates of any kind of psychopathology.¹¹²

Marc Sageman, a psychiatrist, looked for signs of personal pathologies in terrorists and found little evidence of pathology in the backgrounds of 172 *mujahedin*.¹¹³ Indeed, the evidence seems now so overwhelming for Martha Crenshaw to be able to state bluntly: ‘the idea of terrorism as the product of mental disorder or psychopathy has been discredited’.¹¹⁴

The most powerful demolition of the ‘terrorist syndrome’ as a ‘psychologically meaningful construct’ is the heterogeneity of terrorists themselves.¹¹⁵ Put simply, there is no common profile for the terrorist. There is no common aetiology, personality type or developmental trait, nor are there common conditions in the background of the terrorist that could lead to them. Ariel Merari conducted a study of the demography of suicide bombers and found few consistencies. Many suicide bombers were young,

but not all. Most were male, but 15% were female, and in places like Sri Lanka and Chechnya 40% were female. Most came from poor backgrounds with limited education, but some had university degrees from wealthy families.¹¹⁶ Indeed, in a separate demographic study on suicide bombers, Robert Pape found that at 17%, the lower class were proportionately under-represented.¹¹⁷

Indeed, Crenshaw identifies *normalcy* 'insofar as we understand the term' as the characteristic feature of terrorists rather than psychopathology or personality disturbance.¹¹⁸ Rohan Gunaratna in his study of AQ's 1998–2001 operational procedures in Afghanistan, *Inside Al Qaeda*, argues that of the 10,000–110,000 graduates of training camps in that region, only the best, most dedicated recruits (around 3%) achieved full AQ membership. Part of criteria used by AQ commanders to select recruits for full membership was psychological stability. AQ actually screened its recruits to winnow out genuinely pathological aspirant members.¹¹⁹

Terrorists generally, and *takfiri* insurgents especially, are 'human beings who think like we do [...] in a different set of circumstances they, and perhaps we, would live very different lives'.¹²⁰ Instead of pathological explanations, we must be sensitive to contextual pressures as drivers of terrorism. The underlying psychological emphasis of this model is 'means employment', or 'the conditions under which an individual or a group would opt for a given course of action versus its possible alternatives, given these actors' objectives'.¹²¹ As H. A. Cooper argues in 'The terrorist and victim' (agreeing with Merari's formulation elaborated above), the selection of terrorism as a tactic is not determined by the pathology of the actor, but rather access to conventional military means. Indeed, Cooper suggests that terrorists find terrorism psychologically stressful, and must develop strategies to insulate themselves psychologically from the realization that they kill people.¹²² As Richardson argues, 'terrorists are neither crazy nor amoral but rather are rationally seeking to achieve a set of objectives'.¹²³

Even the apparent confirmation of AQ's irrational millennial fanaticism, suicide-bombings, is presented by AQ itself as a rational tactic. In AQ commander Ayman al-Zawahiri's book *Knights Under the Prophet's Banner*, he argues that '*jihad* needs a new leadership that is sufficiently scientific [...] and] rational'.¹²⁴ For Zawahiri, suicide attacks are rational: 'the most efficient means of inflicting losses on adversaries and the least costly, in human terms, for the *mujahedeen*'.¹²⁵ A further fascinating glimpse at the day-to-day world of AQ can be seen in the contents of what is reliably alleged to be AQ operational commander Muhammad Atef's personal computer, from AQ's central office in 2001. Containing nearly 1,000 documents dating from 1997, it shows that 'the work relationships of al-Qaeda's key players were

characterized by the same sort of bickering and gossiping and griping about money that one finds in offices everywhere'.¹²⁶ A memo, apparently from Ayman al-Zawahiri to 'Ezzat' complains: 'loans amounted to \$2,190. Why did you give out loans? Didn't I give clear orders to [...] refer any loan requests to me?', whilst another item reads 'where are the two old faxes? Did you get permission before buying a new fax?'¹²⁷

The essay concludes this section with the suggestion that to pathologize terrorism and call *takfiri* insurgents mad is to conflate extreme deviancy of action mistakenly with psychological deviancy. This, a 'fundamental misattribution error', is well evidenced in the social psychological literature as 'the human tendency, when evaluating the conduct of others, to exaggerate the importance of character and to underestimate the influence of context'.¹²⁸ When we observe terrorism, we misattribute this behaviour to that a person's mental illness, and fail to recognize the contextual pressures that may have influenced that behaviour. Interestingly, in justifying our own behaviour, there is an opposite tendency to emphasize those special circumstances that place us under unusual pressure.¹²⁹ As Pronin complains, 'in the many terrorism-related conflicts around the world today, one can observe the conviction that "our side" has a monopoly on reason and objectivity, and it is the "other side" that refuses to see the past or the present as it really was or is'.¹³⁰ Thus, as William Ury in *Getting Past No* asserts, 'as long as there is a logical connection *in their eyes* between their interests and their actions, then we can influence them'.¹³¹ It is to these interests, and the question of viability, that the essay turns next.

Viable?

The Problem of Viability

In Thomas Schelling's great formulation: 'if his pain were our greatest delight and our satisfaction his greatest woe, we would just proceed to hurt and frustrate each other'.¹³² Where the relationship between the state and the terrorist group is truly zero-sum, there is 'nothing to negotiate about [...] nothing to negotiate with'.¹³³ Establishing the need for negotiation rests on the acknowledgment, by both parties, that overlapping interests and aims – viability – allows the possibility that a negotiated settlement would be preferable to continued conflict. All authoritative definitions of negotiation stress the necessary existence of recognized common interest. For Bull, 'agreements are possible only if the interests of the parties, while they may be different, overlap at some point, and if the parties are able to perceive that they do overlap'.¹³⁴ For Geoffrey Berridge, the important shift from the admission of stalemate to the acknowledgment of the possibility of a

negotiated settlement requires 'a recognition of *common* interests between disputants'.¹³⁵ Note here that by goals the essay means those 'outcome goals' the strategic aims of the group, the fulfilment of which signal the end violence rather than 'process goals', those that aim to sustain the group in order to perpetuate it.¹³⁶

The US relationship with *takfiri* extremists is considered to be zero-sum. There are three major arguments that assert the idea of a zero-sum relationship. The first view popularized by Thomas Friedman in *The New York Times* editorials sees AQ opposed to the United States because of its popular culture, its depravity and decadence, and thus is concerned with the destruction if the United States itself.¹³⁷ This is how President Bush has presented AQ: 'it has an ideology that does not believe in free speech, free religion, free dissent, does not believe in women's rights, and they have a desire to impose their ideology on much of the world'.¹³⁸ For this reason, AQ 'hates not our policies, but our existence'.¹³⁹ A second view (related to the discussion on rationality, above), stressing the religious nature of AQ, argues that AQ kills as an end in itself. For example, the 1995 US National Intelligence Estimate stated that the 1993 bombing of the World Trade Centre was intended 'to kill a lot of people, not to achieve a more traditional political goal'.¹⁴⁰ Hayes argues that 'they plan suicide attacks routinely, partly because they believe this approach constitutes the path to a religious afterlife'.¹⁴¹ A third view sees the views of the 'new' religious terrorism to be political, but so extreme as to make them unable to be possibly accommodated. For Pruitt, more ideological terrorists like AQ 'make more extreme demands and are less compromising'.¹⁴² In the interests of ascertaining the viability of AQ, do any of these arguments stand up?

Regarding the first view, while bin-Laden has implored the people of the United States to change their 'spiritless materialistic life', 'few al-Qaida public communiqués mention Western popular culture'.¹⁴³ 'The relative silence on these issues', Max Abrahms argues in 'Al Qaeda's scorecard', 'suggests that American values are not a principal grievance'.¹⁴⁴ Bin-Laden has actually repeatedly, publicly and explicitly rejected the claim that AQ's goal is to change Western values, and warns Western audiences that those, like Bush, that repeat this 'lie' are either confused or 'deliberately misleading you'.¹⁴⁵ The second allegation, that AQ kills as an end in itself, Abrahms finds equally unconvincing. If this were so, AQ 'would by definition have no message to communicate'.¹⁴⁶ Yet, a number of bin-Laden's communiqués are directly aimed at Western audiences. Bin-Laden warned Europe about the cartoons of Muhammad,¹⁴⁷ and even, in reaction to polls showing most Americans favoured peace in Iraq, gave the offering that 'we do not mind offering a long-term truce based on just conditions that we will stick

to', adding 'if your desire for peace, stability and reconciliation was true, here we have given you the answer to your call'.¹⁴⁸ Even given the obvious rhetorical intent of these messages, it is clear AQ is engaging in some kind of strategic dialogue, concerned to explain and legitimize its actions.

Instead, AQ's goals must be understood as an essentially political attempt to influence US foreign policy. Abrahms notes that AQ's foreign policy demands, both publicly and privately, have been 'remarkably consistent' since the early 1990s.¹⁴⁹ These demands, briefly, have been to reduce the US military presence in the Persian Gulf, to discontinue support for 'apostate' Muslim rulers, to refrain from military adventurism in Muslim nations and to end support for Israel. In a study of AQ's public communiqués, Lia Brynjar found that these 'core elements' of AQ's aims have, with understandable reaction to shift in context, remained 'relatively consistent'.¹⁵⁰ These goals are not only publicly asserted, but also privately held within the organization. AQ operatives captured in Afghanistan testified in 2002 and 2003 'that their leaders had personally told them that the purpose of the Jihad was to end U.S. support for Israel and the occupation of the Persian Gulf'.¹⁵¹ A number of private letters written by bin-Laden and seized in 2001 mentioned objectives 'indistinguishable from those contained in his public statements'.¹⁵²

AQ aims are thus not to change the West itself, or kill as an aim in itself, but are political in nature. The problem of viability is that even if AQ's goals are political and consistent, are they goals that could possibly be accommodated? Surely AQ's stated aims – the overthrow of pro-Western Muslim rulers, the destruction of Israel and a withdrawal from the Middle East – are fundamentally antithetical to the interests of Western states?

Response

Richardson makes a useful distinction between temporal and transformational terrorist groups. Temporal goals 'could be won or lost without overthrowing the fundamental balance of power [... these are] issues on which compromise could be negotiated'.¹⁵³ A transformational aim: 'by its nature is not subject to negotiation and its satisfaction would require the complete destruction of the regional state system'.¹⁵⁴ To understand where there are overlapping interests, and where there are not, we must ascertain whether AQ's outcome goals are in principle transformational or temporal. To do this, the essay stresses that a disaggregation of AQ in two important dimensions is necessary. The essay will first disaggregate the disparate constituents of the global *takfiri* insurgency and then disaggregate the actors within these groups themselves. The key suggestion is that, in both cases, disaggregation exposes groups and individuals within groups that hold temporal goals.

First, then, we must disaggregate the complex *takfiri* extremist network. Especially since 2001, AQ has not existed as a hierarchical organization. Instead, it has consisted of AQ Core, a central group of leaders and strategists associated with bin-Laden and Zawahiri, and a nebula of more traditional groups formally and informally aligned with the core group. These core groups often have little or no physical contact with the centre, but buy into the AQ's franchise of global *jihad*.¹⁵⁵ Thus, in 'management parlance, bin Laden might consider himself a "facilitator", rather than a "leader"'.¹⁵⁶ The key implication of AQ's networked nature is that many of the groups that have bought into AQ's admittedly transformational narrative of global *jihad* principally hold local, temporal aims. Trager notes that 'of the forty-two foreign terrorist organizations currently designated by the U.S. Department of State, the majority are 'more interested in advancing a local agenda'.¹⁵⁷ *Jane's Terrorism and Insurgency Database* profiles 613 terrorist groups, yet only 152 are 'militant Islamist'. A far larger group, over 300, have both 'militant Islamist', but also 'ethnic separatist', 'separatist' and 'ethnic militant' aims.¹⁵⁸ *Jane's Group Profiles* demonstrate that AQ's grand narrative of global *jihad* often sits uneasily with each specific franchisee's local concerns. For instance, the Groupe Islamique Armée concentrates on the mainly domestic aim of establishing an Islamist state in Algeria. Jesh-e-Mohammad retains a domestic agenda to establish a radical Islamist state in Pakistan. The Abu Sayyaf Group focuses on the establishment of an independent Islamic republic Mindanao, and the Sulu archipelago. The AQ-linked Rohingya Solidarity Organisation's core aims are to prevent the repression of ethnic Rohingyas in Myanmar and the installation of an Islamic and autonomous Rakhine district straddling Myanmar and Bangladesh. The Gerakan Mujahideen Islam Patani, linked to Jemaah Islamiyya, reportedly continue to fight for the establishment of an independent Islamic state in southern Thailand.¹⁵⁹

The case study of the Moro Islamic Liberation Front (MILF) demonstrates how these local/international cleavages have been exploited. The MILF had the national aims of greater autonomy and rights for the Muslims of south Philippines, and engaged in terrorism to achieve these aims.¹⁶⁰ Between 2001 and 2002 intelligence linked MILF with AQ as the MILF increasingly subscribed to the AQ-led brand of global *jihad*. The MILF Camp Abubakar was opened to foreign jihadists, and AQ operatives were active in the Philippines. Negotiations between the Philippine government and MILF addressing their political demands and grievances led to MILF cooperation in the arrest of over 100 AQ and Jemaah Islamiyah suspects. Philippine Maj. Gen. Raul Relano stated that the government 'will not stop tracking [the Abu Sayyaf Group] down with the help of our MILF

friends'.¹⁶¹ This is why 'the Philippines has become the model for additional fronts in the war on terrorism'.¹⁶² The same is at least conceptually possible for other members of the AQ franchise.

Members of the AQ network in both Afghanistan and Iraq seem willing to trade global *jihād* for national political goals. In November 2006, a leading supporter of the Taliban in Pakistan, Maulana Fazkur Rahman, issued the public statement that 'the Taliban could participate as a party in elections in Afghanistan [...] so long as they were not labelled as terrorists'.¹⁶³ Negotiations between the British Army and Taliban fighters in Musa Qala led to Mullah Saleem, initially an antagonist of the British, appointed Governor.¹⁶⁴ Kilcullen's fieldwork in Iraq established a further precedent. The Zobai tribe in Abu Ghraib District, west of Baghdad, had fought against the Coalition and often cooperated with the AQ's affiliates in Iraq. By mid-2007, however, the Zobai leaders engaged and negotiated with the Coalition, presenting the very temporal demand that local security be led by local forces, under local leaders. In fact, 'local leaders and their forces almost always wanted to be integrated into the Iraqi government structure [...] legitimately employed under the Iraqi government but responsible for security in their own districts'.¹⁶⁵ After successful negotiation, Zobai tribesmen increasingly cooperated in the fight against AQ in Iraq.

The second dimension of disaggregation is within terrorist groups themselves. In *Deterrence and Influence* Paul Davis conducts a systems analysis of AQ to show that

it is a mistake to think of influencing al-Qaeda as though it were a single entity [... there are] many elements of the al-Qaeda system, which comprises leaders, lieutenants, financiers, logisticians and other facilitators, foot soldiers, recruiters, supporting population segments, and religious or otherwise ideological figures.¹⁶⁶

Some of these individuals will genuinely and passionately hold transformational aims. Others will not. Exonerating this thesis, in 2008 an Afghan Provincial Governor stated that 'ninety percent of the people you call "Taliban" are actually tribals. They're fighting for loyalty [...] they're not extremists'.¹⁶⁷ Kilcullen's in-depth ethnographic fieldwork shows that of the 32,000–40,000 members of three AQ-linked groups active in eastern Afghanistan and Pakistan – Lashkar e Tayyiba, Hizb-i Islami Gulbuddin and Tehrik e-Taliban Pakistan – there are 8,000–10,000 'core' Taliban, with the remaining 22,000–32,000 local, part-time guerrillas who operate on a temporary ad hoc basis. 'All but the full-time Taliban (and even potentially some of them) are reconcilable under some circumstances'.¹⁶⁸

Whilst the complex structure of AQ is often presented as a barrier to negotiation, it is instead an opportunity. A networked organization offers more points of entry than a traditional pyramidal structure.¹⁶⁹ When these points of entry are explored, it is often clear that AQ franchisees, and individuals within them, hold local and temporal, not international and transformational, demands.

The essay thus concludes this section by suggesting that the assumption of ‘zero-sum’ is rarely true. It is a human tendency, Gabriella Blum and Robert Mnookin warn, to ‘fall prey to the zero-sum, or fixed-pie fallacy – the assumption that a conflict is purely distributive, and that any gain by one necessarily poses a loss to the other’.¹⁷⁰ There is more often than we think the possibility of joint gain. The existence of differing priorities, beliefs and attitudes make the prospect of ‘dovetailing’, as the identification of items that are of low cost to one side and high cost to the other, possible.¹⁷¹ Instead of befalling the fixed-pie fallacy, creative problem-solving can find and exploit these opportunities to dovetail. ‘A negotiator’s motto could be “*Vive la difference!*”’.¹⁷² Yet, even if there are overlapping interests, can states appropriately negotiate with unrepresentative groups such as AQ? It is to this question that the essay now turns.

Representative?

The Problem of Representation

The current basis of international diplomatic law demands that appropriate negotiating bodies be representative. In an authoritative treatment of diplomatic law, Michael Hardy defines negotiation as ‘the conduct, through *representative organs* and by peaceful means, of the external relations of any subject of international law [...]’ (added emphasis).¹⁷³ Similarly, Bull defined diplomacy as ‘the conduct of relations between states and other entities with standing in world politics by *official* agents and by peaceful means’ (added emphasis).¹⁷⁴

The essay uses Richard Langhorne’s understanding of ‘representation’ as ‘the reciprocal recognition of an actor as a legitimate party with the power to influence both the flow of affairs and the functioning of a given system’.¹⁷⁵ This, the essay suggests, is the vital normative, conventional and legal mechanism whereby an international actor receives recognition as an appropriate participant in international diplomacy. To say that AQ is unrepresentative is to say that the appropriate norms of reciprocal recognition deny AQ as a legally appropriate negotiating partner.

What is the current mechanism of representation? The most important international convention on diplomacy is the 1961 Vienna Convention on

Diplomatic Relations (VCDR). This convention sought to codify customary law on diplomacy, to 'clarify and tighten it, refine its content, and relaunch it in the form of a multilateral treaty'.¹⁷⁶ The customary law that the VCDR enshrined was the 'French System' of diplomacy: 'conduct on a state-to-state basis via formally accredited resident missions'.¹⁷⁷ The practice of the 'French System', Geoffrey Berridge explains, gradually coalesced during the 15th century, became ascendant in the 18th and, despite some peripheral revisions after the First World War, has 'remained at the core of the world diplomatic system after the First World War, and remains [...] at the core today'.¹⁷⁸

The 'French System' of diplomacy, and the VCDR which legally enshrines it, reflect a vision of international political conduct that sees the state as the exclusive, sovereign actor in international relations, and thus the sole appropriate agent of formal diplomatic conduct. In the text of the convention: the purpose of the privileges and immunities established by the convention has the purpose 'to ensure the efficient performance of the functions of diplomatic missions as representing States'.¹⁷⁹ Thus, what stands at the heart of contemporary legal understandings of diplomacy is a state-centric vision of diplomatic conduct.

Legal recognitions of diplomatic conduct are predicated on the wider constitutional understanding that the state should be considered the primary building block of international relations. This, the 'Westphalian order', established by the series of treaties of the Westphalian Peace of 1648, is characterized by the recognition of 'state sovereignty' 'based on the two principles of territoriality and the exclusion of external actors from domestic authority structures'.¹⁸⁰ With this profound institution, the international system was legally codified as a fabric of independent and sovereign states, legally exempt from domestic interference by any actor. These independent political communities 'each of which possesses a government and asserts sovereignty in relation to a particular portion of the earth's surface and a particular segment of human population' are considered the *only* representative agents in international relations, and in diplomacy.

The problem of representation is that the AQ network is multi-ethnic, multi-linguistic and multinational. It does not have territory, military hardware or a regime. It has 'internet websites, satellite television links, clandestine financial transfers, international air travel, and a proliferation of activists ranging from the suburbs of Jersey City to the rice paddies on Indonesia'.¹⁸¹ 'Terrorist groups are not legitimate representatives of a physical territory or population. They lack formal accountability to any constituency'.¹⁸² They are, for these reasons, considered legally inappropriate negotiating partners by the VCDR.

Response

Let us return to our understanding of representation as ‘the recognition of an actor as a legitimate party with the power to influence both the flow of affairs and the functioning of a given system’.¹⁸³ As negotiation is the practice that occurs at the interstices of power, it is then no accident that the state-centric ‘French system’ of diplomacy was established during an epoch when states were considered, naturally, as the sole loci of this power to influence the flow of affairs. The point here that the essay wishes to stress is that understandings of what a representative actor could be, and where power in the international system lies, are crucially linked.

The distributions of power in international politics are changing. In her seminal article ‘Power shift’, Jessica Mathews argues that, in an increasing trend beginning at the end of the Cold War, states ‘are sharing powers – including political, social, and security roles at the core of sovereignty – with businesses, with international organizations, and with a multitude of citizens groups’.¹⁸⁴ The computer and telecommunications revolution, she argues, are globalizing action, and rendering the territorial location of an action increasingly irrelevant. Consequently, these technological drivers are giving new, non-state, non-territory-based groups, increasingly prominent international political agency, and fracturing state monopolies on agency and power. ‘In every sphere of activity, instantaneous access to information and the ability to put it to use multiplies the number of players who matter and reduces the number who command great authority.’¹⁸⁵

Much current commentary, inspired by Mathews’s thesis, is now concerned with the increasing prominence of non-governmental organizations in international relations, and their increasing role in global governance. For Langhorne in ‘The diplomacy of non-state actors’, ‘there has been a sharp increase in the number and activity of global actors who are not states’.¹⁸⁶ For Kanishka Jayasuriya in *Breaking the Westphalian Frame*, ‘the fact remains that new forms of global governance create new international actors operating outside of traditional public institutions’.¹⁸⁷ With the impression that structures other than states operate in international politics, the Westphalian conception that the state is the sole structure that can enact power in international affairs falls under increasing doubt. ‘By now we must recognize that political power is being repositioned, recontextualised and, to a degree, transformed by the growing importance of other less territorially based power systems.’¹⁸⁸

As this essay has already argued, notions of representation are crucially linked to notions of sovereignty and power. Thus, as non-governmental organizations assume power in international politics, and as state-centric sovereignty is questioned, ‘this evolution is ending the principle that only

states and their creations have the right to diplomatic representation [...] bringing inexperienced, uncertain and sometimes reluctant actors onto the diplomatic stage'.¹⁸⁹ This fracturing of sovereignty implies that 'the monopoly of traditional centres with regard to the instruments and activities of diplomacy is being contested'.¹⁹⁰ This, the essay suggests, marks the end of the diplomatic monopoly of states.

Yet the international legal framework, and prevailing understandings of representation, have yet to acknowledge these tectonic shifts in international political activity. The crucial thing to underline is that this disjuncture between *de facto* diplomatic action and *de jure* diplomatic recognition has caused a crisis of representation. As Bull noticed, 'there is a great uncertainty surrounding the application of rule, procedure, and recognition to entities other than those representing the sovereign state'.¹⁹¹ Langhorne agrees: 'the methods which secure reciprocal recognition and allow actors to exert influence [...] has become hazy as the ascendant actors fit uneasily with conventional notions of representation'.¹⁹² In a crushing indictment of the irrelevance of current legal-diplomatic conventions, Langhorne concludes: 'the finely honed traditional machinery of inter-state diplomacy is coming to seem increasingly like an antiquated machine of almost baroque refinement'.¹⁹³

Philip Bobbit's *The Shield of Achilles* powerfully places the current crisis of representation in historical context. For him the dying and regeneration of the form of the state, the domestic constitutional order and international law are periodic characteristics of history.¹⁹⁴ Changing forms of the state and changing forms of law complexly interact. We, he argues, are seeing the decline of the old 'nation-state', and the ascension of a new 'market-state'. Thus, Bobbit's influential thesis is that the international constitutional order, and the domestic constitutional order of the nation-state on which it is based, are under siege as an increasing distance forms between the reality of the state, and the legal constitutional orders that codify and recognize its behaviour.¹⁹⁵

Thus, as Langhorne argues, 'past experience demonstrates the need for an accepted system of representation and the emergence of credible representatives. In the contemporary situation, this has yet to happen in any complete way'.¹⁹⁶ Given the current crisis of representation, the idea of whether AQ can, or cannot be considered a representative negotiating partner cannot be decided on the basis of the current legal norms of diplomacy. Instead, the essay suggests that a functionalist approach, reflecting the *de facto* state of international politics, is adopted. Functionalism maintains that 'the actors in international relations are those entities capable of putting forth demands effectively; who or what these entities may be cannot be answered *a priori*'.¹⁹⁷

How, then, can we understand how if AQ is capable of putting forth its demands effectively? Relying on the work of Anna Holzscheiter, in 'Discourse as capability', the essay suggests that we must understand power, capability and thus right of recognition in a new way rather than as purely control over a specific territory, population or military. Now 'different power resources animate the world stage'.¹⁹⁸ Holzscheiter points to 'the power of paradigms, ideas and meaning-structures that constitute (and constrain) international society'.¹⁹⁹ It is a source of power to enact influence over the sociolinguistic attributes of international politics: to control (at least partially) the topics, worldviews and agenda that structure the context within which the exercise of hard power must necessarily be enacted. The essay agrees with Holzscheiter that, in parallel to military power, there is a 'discursive economy', where language is a currency, and where non-governmental organizations like AQ act as 'norm entrepreneurs'.²⁰⁰

AQ has certainly enacted influence over the current sociolinguistic conditions of international politics. Actors must define themselves either with, or in contrast to, AQ, but they cannot ignore them. As Audrey Cronin argues, 'al-Qaeda is at heart a brilliant propaganda and image machine whose primary purpose has been to convince Muslims that they can defeat the West and in this way solve their problems'.²⁰¹ As AQ has been able to articulate successfully the frustrations helplessness and deprivations expressed by a number of Muslim constituencies, they command, as 'meaning architects', considerable resources of ideational power. In summary, then, only diplomatic actors can be representative. Yet, if we understand representation as the recognition of capability, and if we understand capability as the ability to manipulate discourse and ideas, then AQ has capability, should be recognized and is thus representative. However, whilst AQ may be a representative actor, it is not necessarily a legitimate one. It is to this next challenge, the problem of legitimacy, the essay now turns.

Legitimate?

The Problem of Legitimacy

Whilst the previous section was concerned with the institution of diplomacy in a legal sense, it does not exist *only* as a legal entity. To understand how negotiation actually works, we must understand how it fits into a wider fabric of accepted international norms, conventions and accepted practices. We are, this section explains, then faced with a dilemma: can the institution of diplomacy be used against actors that will not accept the conventions and norms on which it is based?

To understand the wider fabric within which diplomacy operates, the essay relies on the model of international cooperation posited by the 'English School' of international relations theory. For Bull, the seminal theorist of the English School, contemporary international politics is composed of states that whilst not sharing complete identity of interest all seek 'to ensure that life will be in some measure secure against violence [...] ensure that promises once made, will be kept [...] and all] pursue the goal of ensuring that the possession of things will remain stable to some degree'.²⁰² These are the elementary, primary and universal values of life, truth and property.

All states, Bull argues, thus conceive it to be in their interests to institute and protect these universal goals and the international 'order', as the 'regular arrangement of social life', that allows these elementary goals to be sustained. To allow international order to exist, states develop rules and institutions. Rules provide guidance – customary, legal, conventional, and normative – as to what specific behaviour is consistent with the elementary goals of international society.²⁰³ The 'institutions of international society' are enacted by collaborating states to operationalize the rules of the international society: they are the balance of power, international law, war, and, crucially for our concerns, the diplomatic mechanism.²⁰⁴ Order in the society of states is thus in Bull's formulation maintained by this tripartite structure: by a sense of common interest, by rules that prescribe the pattern of behaviour that sustains the common interest, and by institutions that make these rules effective. When states collaborate in this tripartite structure, and 'conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions', an 'International Society' is formed.²⁰⁵

Crucially, diplomacy, as an international institution, only exists when this tripartite structure of common interest, rules and institutions are commonly and mutually observed. It can only work in a system where actors pursue their interests, but where this is done on the recognition of a more foundational shared interest in maintaining the international system that sustains international order. The idea of legitimacy, as a 'generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed systems of norms, values, beliefs and definitions', is thus a vital condition for diplomacy to operate.²⁰⁶ In the words of Henry Kissinger: '[Legitimacy] implies the acceptance of the framework of the international order by all major powers'.²⁰⁷

Thus, 'diplomacy in the classic sense, the adjustment of differences through negotiations, is possible only in 'legitimate' international orders', and can only be conducted by legitimate actors.²⁰⁸ It can, the essay suggests,

only engage with actors who pursue their own interests, but do so with the recognition of more foundational shared interests in the maintenance of international order, and thus act according to the rules of the game. Actors may self-interestedly engage in international institutions – diplomacy, the balance of power, even war, but will do so but will do in the name of, not the contestation of, the existing structure. If actors contest the vital norms and conventions on which diplomacy is predicated, diplomacy cannot function.

To illustrate how this concretely works, take, for instance, the diplomatic norm of *pacta sunt servanda*: ‘treaties are meant to be kept’. If an actor is illegitimate, and is not expected to play by the rules of the game, it cannot be trusted to uphold the agreements it makes. Negotiation theorist Mnookin is clear that it makes no sense to negotiate if one ‘believes the other party would never uphold its end of the bargain and there is no effective mechanism for enforcing the negotiated deal’.²⁰⁹

This then, is the challenge of legitimacy. As AQ is considered an illegitimate actor, analysts like Spector warn it ‘may not abide by international law, norms or principles, and may not act as reliable negotiation partners who faithfully implement agreements’.²¹⁰ For Barak Mendelsohn, in ‘Sovereignty under attack’, AQ aims to destroy the state system at the heart of the International Society: ‘it can be confidently determined that bin Laden aspires [...] to abolish the unnatural borders that separate the different Muslim states; and to establish one unified religious Muslim community’.²¹¹ ‘The state system is rejected in this formulation because it is the manifestation of an American scheme.’²¹² AQ’s struggle is thus conceived to be not in the name of the ‘International Society’, but in contestation of it and so a challenge to the principles, rules, and institutions that bind states together.

Response

We are faced then, with the problem of how the institution of diplomacy can be applied to actors who, because illegitimate, deny the institution of diplomacy itself. Many of the issues relevant here have already been covered. As Section Three has argued, many groups have temporal aims that can be established within the current socio-political configuration, and has thus implied that those foundational elementary aims at the heart of the International Society may, in fact, be more a shared value than is commonly presumed. To this argument, this section now adds the evidence that many groups do, in fact, act with often surprising adherence to prevailing diplomatic norms.

Consider the behaviour of Mullah Abdul Salam Zaeef, Taliban ambassador in Islamabad from 1997 to 2001. With the 1996 capture of Kabul and

1997 victory at Mazar-i-Sharif, the Taliban established an embassy in Islamabad as part of campaign for international recognition. In a series of high-profile bilateral meetings with American Ambassador William Milam and British High Commissioner Hilary Sinott, profound cultural difference, resulting in profound disagreement, was in evidence. Yet Paul Sharp's case study of Zaeef shows that the Taliban willingly worked, under difficult conditions, according to international diplomatic norms. The fraught diplomatic exchanges involving Zaeef were characterized by 'the efforts of people from different backgrounds to establish and maintain the reasonable and humane grounds upon which they could reliably communicate with one another'.²¹³ The maintenance of dialogue 'was evidence that Zaeef and his colleagues were all interested in discovering a framework of understanding which could absorb the shock of events and enable them to find ways in which they could continue to talk productively with one another'.²¹⁴ Upon Zaeef's arrest, he complained: 'I am not a criminal. I have committed no offence. I only performed my duties as a diplomat'.²¹⁵

A second example concerns the 2009 statements of Ali Jaboori, Director-General of the Political Council for the Iraqi Resistance (PCIR), an umbrella group for Iraqi insurgent factions. Jaboori, in an interview with *al Jazeera*, confirmed that 'we sat with [the Americans], in a formal way, with formal representatives of [the PCIR] that have weight [...] alongside representatives from the American government'.²¹⁶ In a confirmation of diplomatic norms, he added, 'it is our duty to follow every *correct and legal* path to reclaim the rights of the sons of our people' (added emphasis).²¹⁷

The essay concludes by suggesting whilst of course legitimacy and trust are vital characteristics of any negotiating partner, they are something that can develop during negotiation itself. Whilst diplomacy relies on certain conventions and values, it also promotes them: it is both a civilized and civilizing institution. For Andrea Bartoli, who helped to negotiate an end to the civil war in Mozambique in 1992, the very act of listening can help build trust in the mediator and lay a foundation for communication among enemies: 'even if you are a killer [...] you will probably appreciate somebody talking to you respectfully and listening to you respectfully [...] You get less mad, less crazy, less violent if you just have a channel where you can talk [...]'.²¹⁸ 'Like the scar tissue growing back over a puncture wound [...] diplomatic activity constantly seeks to establish the new grounds on which conversations can be resumed and continued'.²¹⁹ We should not be too hasty to dismiss negotiation on the question of trust and legitimacy alone.

Preferable?

Sometimes, even if possible, 'it is entirely appropriate and rational to refuse to negotiate'.²²⁰ 'Assuming that negotiations are appropriate in all cases would be no more valid a theory than one assumes they never are.'²²¹ The essay now moves from a theoretical treatment of the possibility of negotiation to the contemporary and practical question, of, if possible, is negotiation desirable in the current strategic context? Negotiation, as a strategy, and occurring within a context of strategic interaction, entails political costs, value judgements and ethical dilemmas. As such, this section looks past the initiation of negotiations to its expected outcomes and alleged consequences.

The BATNA

The reason you negotiate is to produce an outcome that is better than the outcome that would otherwise obtain without negotiation. William Ury and Roger Fisher, in *Getting to Yes*, suggest that to decide whether negotiation is a preferable strategic choice, we engage in strategic calculus by hypothesizing our 'Best Alternative to a Negotiated Agreement' (BATNA). The BATNA 'is the only standard which can protect you both from accepting terms that are too unfavourable and from rejecting terms it would be in your interest to accept'.²²² Thus, 'because negotiations are not devoid of costs, negotiating only makes sense if there are reasonable prospects for a negotiated agreement, superior to each party's BATNA'.²²³

The greater a party prefers their BATNA to negotiation, the less the costs of failing to reach a negotiated compromise are, and thus the greater the relative negotiating power they have. If a party can clearly prefer a non-negotiated outcome to any possible compromise, then negotiation becomes, whilst not impossible, unlikely and strategically inadvisable. In assessing whether negotiation could be a strategic reality, we are thus concerned not only with our own BATNA, but also the BATNA of our opponent. The essay moves, then, to assess, the BATNA of both Western states, and the AQ franchise. It asks whether potential negotiated outcomes better serve both sides interests than their respective BATNAs, or whether at least one side should strategically prefer to coerce an outcome.

The Western State's BATNA

Can Western states coerce a preferable outcome against the *takfiri* insurgency? There is a robust consensus amongst senior military practitioners that it cannot. CENTCOM commander, Gen. Petraeus, has cautioned: 'you're not going to kill your way out of an insurgency; you got to reconcile

with as many as you can'.²²⁴ Indeed, Gen. Sir Rupert Smith argues that the entire point of military force, its utility, is to create conditions for non-military levers: 'we intervene in [...] a conflict in order to establish a condition in which the political objective can be achieved by other means and in other ways. We seek to create a conceptual space for diplomacy, economic incentives, political pressure and other measures [...]'.²²⁵ Similarly, Brig. Ed Butler, former Commander of British troops in Afghanistan, has argued for a 'political surge' to mirror a military surge. 'The military solution can, at best, buy the campaign time and space.'²²⁶ This contention, that military force alone cannot achieve meaningful strategic aims, is theoretically reinforced by Martin van Creveld in *The Transformation of War*. In this book he argues that that, from the failure of the French in Algeria and Indochina, the British in India, Palestine, Kenya, Cyprus and Aden, the Soviets in Afghanistan, the Belgians in Congo, the Dutch in Indonesia, the Portuguese in Angola and Mozambique, and, not least, the Americans in Vietnam, conventional forces have been unable to wage asymmetrical 'low intensity conflict' successfully against a technologically, financially and organizationally inferior opposition.²²⁷

Military responses may indeed, as counter-insurgency specialist Kilcullen warns, play into the hands of a deliberate AQ strategy of provocation to exhaust the United States through a series of costly interventions.²²⁸ And although military interventions may exhaust the West, empirical analysis shows they have little hope in preventing terrorism. John Nevin conducted a quantitative study correlating terrorist action to state reprisal in order to observe the efficacy of military retaliation. Looking at the seven case studies of Palestine, Morocco, Algeria, Northern Ireland, Spain, Sri Lanka and Peru, he concludes that there is 'no reliable evidence that retaliation either increased or decreased the average intensity of terrorist attacks'.²²⁹ Finding a slight correlation between US reprisals in Afghanistan and Iraq and an intensification of terrorist attack, he concludes that 'alternatives are desperately needed'.²³⁰

AQ's BATNA

Can *takfiri* extremists be more optimistic in their prospects of coercing an outcome? Cronin, in *Ending Terrorism*, notes that the overwhelming number of terrorist groups end with their aims unfulfilled. Her analysis of the MIPT Terrorism Knowledge Base found that only 6% of the listed groups of groups that rely on terrorism experienced full or substantial achievement of their strategic goals.²³¹ Of those groups, such as the African National Congress, the Irgun and Zvai Leumi that did experience success, she notices that, either by becoming political entities or disbanding, they

were not (only) terrorist groups when their aims were fulfilled.²³² In a similar analysis, Max Abrahms, in 'Why terrorism does not work', found that of the 28 foreign terrorist organizations then designated by the US State Department, the 'groups accomplished their forty-two policy objectives only 7% of the time'.²³³

If these are the prospects of groups that use terrorism generally, the prospects for AQ specifically are even bleaker. In 'Al-Qaida's scorecard', Abrahms examines the success of AQ in achieving their aims.²³⁴ He finds that 'instead of advancing its policy objectives, Al Qaeda terrorism has systematically rendered them more urgent'.²³⁵ The US reaction to its terrorist attacks has been to increase its military commitments in the Persian Gulf, to strengthen relations with 'apostate' pro-American Muslim rulers, to improve relations with Israel and to intervene militarily in conflicts that have killed thousands of Muslims.

A Mutually Hurting Stalemate

Both sides have poor BATNAs, and may be approaching a shared impression that negotiation would be preferable to continued conflict. This, Zartman explains, is the recognition of a mutually hurting stalemate. 'Parties resolve their conflict only when [...] alternative, usually unilateral means of achieving a satisfactory result are blocked and the parties feel they are put in an uncomfortable and costly predicament.'²³⁶ When parties find themselves 'locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them [...] they seek a Way Out'.²³⁷ When this realization is reached: that the status quo (not negotiating) is a negative-sum situation, and when zero-sum outcomes are considered impossible, then positive-sum outcomes will be explored. PCIR Director-General Ali Jaboori indicates a mutually hurting stalemate may be increasingly felt: 'we announced many times that there is no harm for us in negotiating with the Americans. [...] This is a *Sunnah*. Those who are at war always [...] in the end, sit together and come to an understanding.'²³⁸

The 'No Negotiation' Impediment

Even if negotiation is strategically advantageous, many allege that it is so ethically compromising, as to be unconscionable. Negotiation with terrorists is seen to recognize them, confer legitimacy and even reward them. 'Providing a counterpart with "a place at the table" acknowledges their existence, actions, (and to some degree) the validity of their interests.'²³⁹ In this view, we do not refuse to negotiate because it is impossible; we do so because it is wrong. This opinion was sustained throughout the Bush administration. In 2008, in an address to the Israeli Knesset, Bush stated:

'some seem to believe we should negotiate with terrorists and radicals', yet 'we have heard this foolish delusion before. As Nazi tanks crossed into Poland in 1939 [... we] have an obligation to call this what it is – the false comfort of appeasement'.²⁴⁰ Wilkinson dismisses talks with the Luxor assailants because it would mean accepting 'such criminals' as 'legitimate interlocutors'.²⁴¹ Professional diplomats often, too, find the idea of negotiating with terrorists morally uncomfortable. Ahmedou Ould-Abdallah, who played a critical role in the early 1990s in stabilizing Burundi, said: 'dealing with extremists is not an easy exercise [...] morally it is not easy. Because on one hand, you know they have red hands, because they have killed [...] you have to deal with this kind of people, butchers'.²⁴² Donald Steinberg of the International Crisis Group firmly believes that there are limits to listening openly to the perpetrators of atrocities. Some groups are 'still legitimate interlocutors and others that [...] have, essentially, given themselves a red card and taken themselves out of the game entirely'.²⁴³

There are, then, additional costs to negotiating with terrorists. It is on this basis that Kevin Myers passionately attacks the results of the 1998 Good Friday Agreement that allowed Sinn Féin–IRA representatives power sharing in the Northern Irish Executive. He expresses moral disgust at how Gerry Adams, 'who in another epoch would certainly have been tried for war crimes', is now a respected political leader.²⁴⁴ Former terrorists 'speak as if they have been the guardians of decency' rather than the 'night-watchmen of a torture chamber for the past thirty years'.²⁴⁵ 'Evil is rewarded and murderers welcomed in the White House'.²⁴⁶

This is the 'no negotiation impediment'. Spector, in 'Negotiating with villains', describes how, confronted by an actor acting in total contravention of accepted norms, it is usual for a psychological process of dehumanization and demonization, of 'villanization', to occur.²⁴⁷ This process greatly limits the 'possible and legitimate realm of action against the villain'.²⁴⁸ An actor that is 'villainized' is isolated from the channels of international discourse, 'because it does not abide by the rules and norms of international society, it gives up its right to deal and be dealt with in a traditional way, and the 'no-negotiation' doctrine takes effect'.²⁴⁹

A government faces political costs from their domestic constituencies – charges of hypocrisy, even treachery – by acting against the 'no-negotiation impediment'. Yet there are number of tactics of face saving, reflecting a 'person's need to reconcile the stand he takes in a negotiation or an agreement with his principles and with his past words and deeds' that can be employed.²⁵⁰ A villain can be devillainized through the presentation of a 'last chance for peace' allowing the villain party can be reframed, disaggregating it from majority of stigma.²⁵¹ Governments can also negotiate through

clandestine and deniable intermediaries, insulating themselves from criticism if the talks fail, yet able to present a *fair accompli* to their domestic constituency if they are successful.

Yet negotiation should not be seen as compromise of ethics, but a confirmation of them. It was Israeli Foreign Minister Abba Eban's suggestion that negotiation is not an arbitrary option, but an unconditional duty. 'The issue is how to quench the fires, not to hold interminable debate about who kindled them.'²⁵² Negotiating with terrorists is not a question of forgiving or forgetting the past, but holding a pragmatic position about the future. 'It is an ethical perspective that is based on humanistic precepts that place the saving of lives and the cessation of bloodshed as the highest priority.'²⁵³

Conclusion

When we face the question of 'possibility' and 'preferability', we actually ask a number of questions – psychological, legal, conventional, strategic and ethical. The underlying ethos of presenting these questions as challenges – the challenges of rationality, viability, representativeness, legitimacy and preferability – is that if something is not demonstrably impossible, it is possible, and if something is not implacably unpreferable, it stands every chance of being used with profit.

Embodying this ethos, the essay has sought to show that every argument against negotiating with terrorists relies on sustaining one or more of these challenges. Those who deny or dismiss negotiating with terrorists must make at least one of the following positive claims about either the terrorist actor or our relationship with them: that they are irrational, that our relationship is unviable, that they are unrepresentative, that they are illegitimate, and, that anyway, there is no strategic reason to do so.

Yet, the essay has demonstrated that each of these positive claims is flawed. It has argued that to consider *takfiri* insurgents as mad is a fundamental misattribution error. To consider the relationship as unviable is to befall the 'fixed-pie fallacy'. Whilst norms of representation do not admit groups like AQ, these norms suffer from a crisis of representation, and must be revised. Fears of AQ as illegitimate are exaggerated in the face of strong evidence that diplomacy itself inspires trust and legitimate behaviour. Finally, in the face of a mutually hurting stalemate, it makes every strategic sense for negotiation to occur.

Each positive claim on which the denial of the possibility and preferability of negotiation is predicated is itself based either on lazy generalization, intellectual misapprehension or blatant empirical falsehood. The rhetorical intensity of the 'War on Terror' has caused us to define the terrorist 'other'

against ourselves, and invest this 'other' with the opposite bundle of assumed attitudes, aspirations, legal and conventional statuses we claim for ourselves. We thus mask this diverse set of actors with the indiscriminate application of a powerful and emotionalized set of fears, biases, prejudices and inferences.

By denying the impossibility of negotiating with terrorists, this essay has shown that the truth is more complex. It is precisely in light of this complexity that the case of negotiating with terrorists should, instead of being closed so firmly, be reopened. The pursuit of intellectual enquiry should not be to confirm and reinforce over-generalizations, easy dichotomies and rank over-simplifications of the truth, but tease the truth, in all its complexity, apart. It should not deny the possible where it could exist, but instead strive to find it. This essay, by dismissing the arguments against the possibility and preferability of negotiating with terrorists, sees no reason why it is not both of these things. As Arthur Conan-Doyle writes, 'when you have eliminated the impossible, whatever remains, however improbable, must be the truth'.²⁵⁴

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