

# Without Conditions

## The Case for Negotiating With the Enemy

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DIPLOMACY APPEARS ready to make a comeback. The United States, after years of reluctance, is reconsidering the role of negotiation in confronting extremism and managing international conflict. India has resisted an aggressive response to the 2008 terrorist attacks in Mumbai and is open to diplomatic engagement with Pakistan over Kashmir. Participants in the six-party talks have been scrambling to decide whether, when, and how to engage North Korea since its nuclear test of May 2009. The generals in Afghanistan are busier today than they have been in recent years, but so are the diplomats. Certainly, not everyone has rushed to the bargaining table—witness, for example, the military defeat of the Tamil Tigers in Sri Lanka. But governments around the world are asking themselves the same important question: When should they negotiate with their enemies?

Determining the precise conditions for such talks is never easy. In the shadow of terrorism, the calculus is all the more complex. Not only can acts of belligerence or extremist violence strain or derail ongoing negotiations, but the persistence of violence is often the primary reason governments refuse to negotiate in the first place. This has long been the case in Israel, for example, where successive governments, especially those led by the conservative Likud

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Party, have refused to negotiate with Palestinian leaders until they bring the violence to a halt: The same dynamics influenced the peace/process in-Northern Ireland in the years leading up to the 1998 Good Friday Agreement. North Korea's recent provocations have elicited a similar response from hard-liners in Japan, South Korea, and the United States.

The ability of extremists to derail negotiations through violence and belligerence presents policymakers with a high-stakes dilemma: Should the muzzling of extremism be set as a precondition to negotiations, or should negotiations be initiated in order to reduce support for extremism? Similar considerations have plagued peace efforts around the world, from Colombia, where the government has struggled for decades to determine when it should demand a ceasefire from FARC (the Revolutionary Armed Forces of Colombia), to Kashmir, where using violence to derail prospective talks has become a predictable tactic. In Afghanistan, Iraq, and Pakistan, surges in extremist violence are threatening to further destabilize already-weak governments.

The cessation of violence is perhaps the most common precondition that governments evaluate when considering diplomatic engagement. But it is far from the only one. The Israeli government suggested earlier this year that it would only negotiate with the Palestinian Authority (PA) if it formally recognized Israel as a Jewish state. U.S. diplomats are debating whether Washington should demand that Iran freeze its uranium-enrichment program as a precondition to negotiations. Participants in the six-party talks are considering the extent to which North Korea should be forced to adhere to prior agreements before the next round of negotiations can begin. And governments everywhere have long been imposing preconditions on themselves, hesitating to negotiate with those seen as having blood on their hands. Israel and the United States, for example, have been reluctant to negotiate with Hamas, even after its resounding success in the 2006 Palestinian parliamentary elections. How such issues are decided is tremendously important. On the one hand, failing to set preconditions when they are useful can undermine the effectiveness of a negotiating strategy. On the other hand, preconditions that are ill conceived may eliminate the prospect of diplomatic engagement.

## THE CONDITIONS FOR PRECONDITIONS

PEACEMAKERS IN Northern Ireland decided that the Irish Republican Army would have to cease its violence as a precondition for the involvement of Sinn Fein (the IRA'S political wing) in the peace process, and the peace process was a resounding success. Yet when Israeli officials have demanded that Hamas and other terrorist groups stop their attacks before they will negotiate with the PA, substantive negotiations have typically failed to materialize. What accounts for the difference?

To determine whether and when to impose preconditions, governments should make two assessments. First, is the other side capable of meeting the demand? Far too often, preconditions are set without regard to the constraints that the opponent faces or the limits of the negotiation partner's influence. Second, will agreeing to the precondition significantly reduce the other side's bargaining power? When one side demands that the other make a highly valued, irrevocable concession before negotiations even begin, such a precondition will almost surely be rejected. Preconditions are appropriate only when they satisfy both criteria: the opponent is capable of meeting them, and doing so will not weaken its future leverage. Otherwise, they will serve no purpose except to create the impression that the other side has thwarted diplomatic efforts. Demands that ignore these criteria suggest either a flawed strategy or an attempt at political gamesmanship—or perhaps both.

Applying these criteria is especially important—and difficult—during a protracted violent conflict. Contrast, for example, the Sri Lankan civil war and the Israeli-Palestinian dispute. In Sri Lanka, the Tamil Tigers not only had a seat at the bargaining table, but they also controlled all the antigovernment violence. When the Sri Lankan government demanded the temporary cessation of violence as a precondition to negotiations, both criteria were met: the Tamil Tigers not only had the ability to stop the violence; they also had the power to resume it if the negotiations failed and thus would not be giving up any leverage by agreeing to lay down their arms and talk. The decades-long conflict ended with a military victory for the government, but the Tamil Tigers cannot blame their reluctance to negotiate on the government's precondition.

In the case of the Israeli-Palestinian conflict, however, the PA has been the one at the bargaining table, but Hamas and other extremist groups, have been responsible for much of the anti-Israel violence. When former Israeli Prime Minister Ariel Sharon stated that there would be no negotiations with the Palestinians until the violence stopped, the only thing that stopped was the peace process. The PA simply could not meet this precondition, as Hamas was not under its control. The problem with postures like Sharon's is that they give extremist organizations like Hamas too much influence—a veto, effectively—over if and when negotiations take place. Throughout the 1990s and the early years of this century, Yasir Arafat, as head of the Palestine Liberation Organization (PLO) and later the PA, did not have the power to fully rein in violent extremists, and his successor, Mahmoud Abbas, may exert even less control over Hamas. In other words, governments should demand the cessation of violence or belligerence as a precondition to negotiations only, first, when the other side is capable of meeting the demand and, second, when the other side can do so without having to relinquish all its leverage. When either condition does not hold, they would do better to follow the advice of former Israeli Prime Minister Yitzhak Rabin: "Fight terrorism as if there is no peace process; pursue peace as if there is no terrorism."

One should never set preconditions without a clear understanding of the other side's perspective.

The same analysis holds for the question of whether the PA'S recognition of Israel as a Jewish state should be a precondition for final-status peace talks between the Israelis and the Palestinians. In April 2009, Israeli Prime Minister Benjamin Netanyahu made statements that were interpreted as asking for just that. This precondition would impose a far greater hurdle than Israel's demand for simple diplomatic recognition, which the PLO largely conceded during the 1993 Oslo negotiations. After a spate of criticism, Netanyahu's office backtracked. This was a welcome revision. If the PA were to recognize Israel as a Jewish state, it would sacrifice its future leverage, because this is a concession that would be difficult to retract if the negotiations failed. And most Palestinians believe that it would

compromise their ability to advance their long-standing demand that Palestinian refugees displaced in 1948 and 1967 be granted "the right of return."

Another example of a diplomatic initiative potentially hinging on the wrong precondition is a proposal, currently under consideration, that North Korea be made to adhere to the agreements it has already signed before another round of negotiations is launched—this is what former U.S. Secretary of State Henry Kissinger has called "the minimum precondition." On the one hand, it seems reasonable to demand this, lest the North Koreans feel free to disregard future agreements with equal abandon. On the other hand, why make this a precondition when it can just as easily be negotiated at the table? More important, if North Korea's recent saber rattling was meant less to pressure the United States than to signal the regime's strength at home as a leadership succession looms, then the North Korean leadership might not be able to meet the precondition at all: neither Kim Jong Il nor his successor could agree to respect prior agreements without signaling weakness to North Koreans at large or to those competing for the top job. As this example suggests, one should never set preconditions without a clear understanding of the other side's perspective and the constraints the other side is under. When it comes to North Korea, it might be more useful to insist that if negotiations happen at all, they must happen very soon. Delays will only increase North Korea's relative bargaining strength as Pyongyang continues to expand its nuclear capability.

### ENGAGING WITH EXTREMISTS

GOVERNMENTS NOT only impose preconditions on others; they also impose preconditions on themselves. A government may want to wait until there is sufficient support among constituents for a peace process or insist on holding multilateral, as opposed to bilateral, talks. More commonly, even governments that are generally willing to negotiate often first set limits on their own behavior by refusing to talk to groups with ties to terrorists. The U.S. State Department, for example, publicly states that it will "make no concessions to terrorists and strike no deals."

This position has the virtue of ideological purity but the vice of impracticality. When everyone at the table has clean hands, governments/are unlikely to make progress on what is often the most important issue: the cessation of violence. By making it difficult for governments to extract concessions on a critical issue, this precondition reduces the governments' own bargaining power. The experience of Northern Ireland demonstrates the value of bringing extremists—or their proxies—to talks. In 1997 and 1998, even though the Unionists were unwilling to negotiate directly with the IRA, the presence of Sinn Fein at the bargaining table allowed the parties to negotiate the issue of violence. Although Sinn Fein and the IRA by no means formed a monolithic entity, sufficient ties between the organizations made it possible to neutralize any potential spoiler tactics of the IRA by dealing with Sinn Fein. The implication is that governments should encourage ties between those responsible for violence and those willing to negotiate. For this reason, recent attempts to reconcile Hamas and the PA should be supported by Israel and the United States.

Unfortunately, diplomatic efforts are often based on carefully selecting only those negotiating partners who are unlinked to extremist violence. This was true of the United States' de-Baathification effort in Iraq and is true of Israel's support for the anti-Hamas leader of the PA, Abbas. Likewise, India's willingness to negotiate with Pakistan is predicated on the ability of Pakistan's leaders to distance themselves from extremists operating in Kashmir. In fact, the existence of some ties between Pakistan's leaders and those extremists would be useful in negotiating with the Pakistani leadership. Certainly, not all extremists are willing to negotiate, but efforts to exclude those groups that are willing to come to the bargaining table or send their proxies are ultimately self-defeating.

#### ERRING ON THE SIDE OF NEGOTIATION

THEIR POTENTIAL to cause strategic blunders notwithstanding, ill-conceived preconditions to negotiations are popular. Politicians who are personally opposed to negotiations make them because when unmet, they provide an easy excuse to scuttle diplomatic efforts. And

politicians who support negotiations but are wary of public opposition favor preconditions because if met, they provide an early win with which to hedge against the risk of backing a peace effort that may ultimately fail. The public, in turn, tends to support such demands as just claims against an enemy that has behaved immorally or illegally.

Unfortunately, the appetite for preconditions is not matched by an adequate supply of reasoned analysis and nuanced debate about them. This creates a bias toward setting preconditions, ones that are often based on political expediency or simplistic assessments. This approach has been so detrimental that even the elimination of all preconditions to negotiations would yield better diplomacy than what has prevailed in recent years, particularly when it comes to the diplomatic efforts of the United States and Israel.

Change may be on the way. Barack Obama's call early in the U.S. presidential primaries—before he was leading in the polls—to negotiate with enemies without preconditions was, if not a fine-tuned policy revision, an important step forward. That Obama's stance was so strongly criticized as being naive and dangerous, when it was neither, illustrates the enduring appeal of preconditions. That these attacks were not altogether successful and that he subsequently reasserted his position—most notably, in his June 2009 Cairo speech—suggest that enough Americans have done some analysis of their own: If a country refuses to negotiate when it is clearly in a position of strength, when will it ever negotiate?

A wise foreign policy errs on the side of negotiation and removes as many impediments to diplomacy as possible. Carelessly conceived preconditions remain among the greatest barriers to achieving negotiated peace. Curtailing their use, if not discarding them altogether, would herald a new era in foreign policy—one both more ambitious and, ultimately, more successful.