Negotiating under Fire:

Preserving Peace Talks in the Face of Terror Attacks

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Articles & Testimony

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There has been renewed emphasis on diplomacy recently and the potential of various potential "peace processes." But negotiations, even if desirable, do not occur in a vacuum. Understanding how violence undermines the legitimacy of a peace process can help determine what measures may effectively insulate peacemaking from the efforts of outside spoilers to wreck ongoing negotiations over long-festering, ethnic conflicts. To this end, I interviewed some 75 Israeli, Palestinian and American negotiators, mediators, diplomats and experts, to write Negotiating under Fire: Preserving Peace Talks in the Face of Terror Attacks **(templateC04.php?CID=297)** (Rowman & Littlefield, 2008).

Without commenting on the efficacy of the Oslo peace process itself, I would note that Israeli-Palestinian negotiations in the years 1993-96, the period I focused on, offer a telling set of case studies of violent attacks undermining ongoing peace talks. I lookd at three specific cases: the February 1994 attack by Jewish extremist Baruch Goldstein against Muslim worshipers in Hebron; the November 1994 kidnapping and murder by Hamas of Israeli corporal and dual Israeli-American citizen Nachshon Wachsman; and the string of terror attacks, in particular Hamas suicide bus bombings, in February and March 1996.

Fits and Starts:Negotiating against the Backdrop of Attacks, 1994-1996

Following the signing of the Declaration of Principles in 1994, Israeli-Palestinian negotiators began to gain positive momentum. This progress was temporarily halted when Baruch Goldstein, an Israeli citizen, shot and killed more than 30 Muslim worshippers at the Cave of the Patriarchs/Ibrahimi mosque in Hebron. Many more people were killed and injured in the riots that ensued, and the peace process was stalled until an agreement was reached over a UN Security Council resolution and the deployment of unarmed, symbolic international observers in Hebron. By August 1994, the peace process was back on track, and in August, Israel and representatives from the Palestinian Authority signed an accord on the early transfer of a number of powers from Israel to the Palestinian Authority.

In October, the process was disrupted once again, by Hamas's abduction of Nachson Wachsman. While Palestinian Authority and Israeli security services worked together to locate Wachsman -- a notable development -- he was killed in the subsequent raid.

Terror attacks of various intensities continued to plague the peace process as it continued through 1995 and into

1996. These included numerous attacks by Palestinian terrorists on Israeli targets, as well as attacks by Israeli extremists (such as the assassination of Yitzhak Rabin by Yigal Amir) determined to stop the peace process from going forward. But despite the violence of extremists opposed to peace talks, Israeli and Palestinian negotiators made several significant achievements. In September 1995, Israeli and Palestinian negotiators concluded the Interim Agreement (Oslo II) on the transfer of powers in the West Bank from Israel to the Palestinian Authority.

On February 24, a Hamas suicide bomber blew up the Number 18 bus in downtown Jerusalem in the middle of the morning rush hour. An hour later a Hamas bomber targeted a bus stop in the southern Israeli town of Ashkelon. The next day, a Palestinian Islamic Jihad operative rammed his car into a group of Israeli civilians. Despite severe security measures and a full closure of the West Bank and Gaza Strip, another Hamas suicide bomber targeted the same Jerusalem bus route almost exactly a week after the first attack, blowing up the Number 18 bus during rush hour a second time.

The Mechanics of Undermining Peace through Violence

The literature abounds with discussion of the need for conflicts to be ripe for resolution, the need for the timing to be right for efforts to settle or resolve conflicts, and the need to establish momentum for successful negotiations. Missing is an effort to understand the factors involved in preserving that ripeness, maintaining the timely environment, and sustaining momentum, especially in the context of a crisis.

More than anything else, terror attacks upset the negotiation process by first freezing whatever positive momentum the parties have established and then injecting a countervailing momentum that undermines the ability and willingness of the parties to continue negotiating. Leaders find themselves unable and/or unwilling to pursue a peace policy when events cut into the public's approval and support of the leaders themselves and the legitimacy of their regime (negotiator authority), the policy of negotiation (policy legitimacy), or the credibility of the other party.

Terror attacks strike at the heart of these factors of legitimacy, forcing decision makers from each party to turn defensively inward and secure renewed domestic support for themselves and their policy of negotiation, and the credibility of the other party.

The need to settle political issues at home-whether they are issues of legitimacy such as balancing concessions with the associated political costs or questions of personal security after a massive attack -- takes precedence over the need to build confidence with the negotiators across the table.

Terror attacks also prompt the central questions, once back at the negotiating table, how do negotiators cope with both loss of faith in one another and the underlying question of whether the opposing negotiators remain the legitimate spokesmen of their people? Do they have the authority to make concessions and live up to their end of any settlement? Without successfully selling the policy of negotiation at home all over again, and in the absence of positive answers to the above questions, negotiations cannot resume.

If and when negotiations do resume, what changes have occurred on factors like negotiator authority, policy legitimacy, and credibility of the other party that collectively form the negotiating environment? Certain tactics are no longer viable in the post-crisis phase of negotiations, and others have suddenly become viable. While every concession and agreement will now face extra scrutiny measuring its marginal utility against the cost to legitimacy, events often empower decision makers with leverage against opposition factions among the public, in the government, and with negotiators for the other party.

For example, terror attacks seriously undercut popular support within each party for the policy of continuing negotiations. Leaders and publics alike question the legitimacy of such a policy when the process that is supposed to usher in an era of peace produces instead an increase in terror attacks. Decision makers find themselves in the unenviable position of trying to explain to a public in mourning that peace processes themselves are rarely, if ever,

peaceful processes. In the Goldstein case, for example, 77.3 percent of Palestinians opposed a return to negotiations either outright (38.5 percent) or unless additional conditions were met (38.8 percent)

Attacks also undermine the legitimacy of the regimes engaged in peace talks as well as their authority as negotiators. The abduction and murder of Corporal Wachsman, for example, generated serious challenges to the negotiator authority of both Israeli and Palestinian decision makers. At the same time that these leaders were thrust on the defensive in terms of justifying the legitimacy of their peace policy, they were also facing challenges to their own legitimacy as leaders and therefore to their mandates as the fully empowered negotiators for their people. Israeli leaders sought to dispel the notion that the brazen Hamas attack was indicative of an underlying flaw in the peace policy with which Rabin had come to be identified. Having wrapped himself and his government so tightly in the mantle of the peace process, Rabin's fate became entirely intertwined with it. The same was true for Arafat on the Palestinian side. Palestinian leaders sought to counter the perception that while Hamas took action and delivered on its promises, Arafat negotiated and negotiated but failed to deliver on such key issues as prisoner release.

Terror attacks also undermine the credibility of the other party, challenging the trust that is critical to resolving long festering conflicts. Tellingly, the Spring 1996 suicide bombing crisis did not occur in a political vacuum. Indeed, going into the crisis each party already felt there was a gap in the other's credibility. Israelis felt Palestinians had yet to engage in the kind of counterterrorism crackdown required of them under the peace accords, while Palestinians felt Israel was dragging its feet on several of its peace process obligations such as prisoner releases, dealing with Israeli settlements, and implementing the redeployment of Israeli forces from Palestinian populated areas. From the stated perspective of each side, the February/March bombing crisis was a direct result of the other's intransigence, which further undermined the credibility of each with the other.

What Could Have -- and Should Sometime in the Future -- Be Done?

Oslo failed. Perhaps the peace process was doomed from the outset, as some argue. Both sides failed to meet their obligations, with Palestinian violence continuing to target Israelis, and Israeli settler activity continuing throughout the peace process. When the parties did meet their obligations, they invariably did so behind schedule and in fits and starts. Some among Israelis and their supporters concluded that Yaser Arafat and the Palestinian Authority never really intended to forswear violence and live in peace, side by side with Israel, while some among Palestinians and their supporters concluded that Israel and its leaders never intended to end the occupation and enable the emergence of a sovereign Palestinian government. This may have been the case for some decision makers on each side, but others clearly labored -- in some cases at great personal expense -- for the success of what by all accounts started out as an unexpected and historic breakthrough.

Despite its inherent flaws and the fact that Oslo ultimately did fail, there were things that could have been done at the time to increase its odds of success, and these same things should be done in advance of future negotiations. Several recommendations for insulating a peace process flow from my analysis of the three crises discuss above. These include:

1. Prenegotiation: This means anticipating that crises will happen and negotiating in advance what types of actions will be taken in response to various types of crises. Part of the utility of negotiating or discussing these issues before a crisis happens is that post-crisis negotiations over concessions and face-saving gestures occur, by definition, under the stress of crisis conditions. Prenegotiation discussions of these issues would provide a crisis-free baseline framework for post-crisis negotiations on crisis response and the terms for a resumption of talks.

2. Implementation Verification: Delayed implementation of past agreements also stands out in the analysis of this study as a major stumbling block to resolving crises. Whether related to security protocols, prisoner releases, conditioning the public for eventual concessions, or other issues, such delays are further exacerbated by the fact that the issues most likely to be postponed or delayed are those that are core issues for one side and contentious ones for

the other.

3. Positive Momentum: The cases I studied not only reveal the severe impact of negative momentum, but, by extension, the potential benefit of positive momentum. It is not enough to insulate peace processes from negative baggage; a positive negotiating environment must be nurtured to shepherd the process through difficult times. Recognizing that crises will happen, and creating a mechanism for dealing with them before they happen, can engender faith in the process and confidence between the parties. Haidar Abdel Shafi, who participated in the Madrid negotiation process that preceded the Oslo Accord, highlighted the importance of maintaining forward momentum. "What is important in the long run," he wrote, "is not the spontaneous and natural response of the people, but whether the process is leading toward the fulfillment of our rights." Or, in the words of former Israeli Finance Minister Dan Meridor, "The peace process was like being on a bicycle; one must keep pedaling lest you crash and fall off." The logic of creating positive momentum, however, is not just to prevent a "crash and fall," but to keep up the parties' hope and optimism that tangible progress is possible in the foreseeable future.

4. Leaders Vested in the Process: The more leaders themselves identify with the peace process and are identified with it by their constituents, the more driven they will be to find a way to make it work. Rabin, Peres and Arafat were all so closely identified with the peace process that their personal and professional fates were intimately tied to it. To be sure, leaders who open negotiations with a former enemy need success to justify the decision to "negotiate with the devil." Negotiations between former mutual enemies demand that both sides be committed to resolving the conflict.

A corollary to this principle is the fact that solutions imposed by third parties will not work. Not only must the parties themselves iron out an agreement for them to have any sense of ownership of it and responsibility for it, but agreements will only be seen as authentic and binding when produced through the process of recognizing the needs of the other side, confronting assumptions and mythologies, and selling the principle of concessions for peace at home

5. Broadening Grassroots Support: While leaders must become vested in the process, it is at least as important that leaders condition their publics for peace and build grassroots support for the process. Especially in the case of prolonged social conflicts, reconciliation and peace processes tend to be driven by elites. It is critical that support for such a process be broadened beyond these elites to grassroots constituencies.

An Israeli negotiator concurs, noting the ingrained mutual suspicion between Israelis and Palestinians and concluding that "the basis for negotiations is a degree of mutual trust [so] that you [can] negotiate in good faith and compromise." In the absence of such faith and compromise, public support for peace decreases and support for violence increases. According to Palestinian scholar Khalil Shikaki, "support for violence among Palestinians is dependent on the Palestinian perception of the threat posed to them." The Israeli psyche is similarly affected -- a fact recognized by Hamas. Commenting on the impact of Hamas attacks on the Israeli public, Jamal Salim, a Hamas operative from Nablus, notes that continued attacks "effect you psychologically" and that "if one Israeli is killed, thousands go to see their psychiatrists."

A critical part of preemptively insulating a peace process from the attacks of outside spoilers is developing a robust plan for crisis response. The authors of The 9/11 Commission Report open their chapter documenting the emergency response on the morning of September 11 by noting that "Emergency response is a product of preparedness." Indeed, devastating security crises are going to take place, even with the best of prenegotiated performance guidelines, effective verification committees, and programs to transform public attitudes toward peace and the "other" party. Misplaced conventional wisdom on the street may believe that the initiation of a peace process means the cessation of violence, but decision makers know better.

Among the issues to be decided in advance are basic crisis response operating procedures, such as rules for "hot pursuit" of suspects across lines of control and establishing dedicated radio frequencies for emergency responders from both sides. Similarly, establishing close intelligence coordination is critical. Such coordination, for example, could have prevented the massive rioting that further aggravated the intensity of the Goldstein attack in Hebron and proved to be critical in finding where Wachsman was being held.

Conclusion

A former Israeli intelligence official I interviewed cautioned that "we need to take into consideration that [extremists] from both sides will remain even if we sign a whole, complete peace treaty with the Palestinians." Moreover, peace processes are not themselves peaceful.

Nonetheless, anticipating that terror attacks will threaten the peace process empowers decision makers to take proactive measures to insulate the process against challenges to policy legitimacy, negotiator authority, and the credibility of the other party.

Having anticipated such crises, the parties are able to fashion guidelines for effective crisis response geared not only toward managing the crisis, but toward doing so in such a way that the resulting feedback loop encourages a resumption of negotiations.

The parties' responses to a crisis -- a factor of decision makers' perception of crisis intensity -- are as important as the crisis itself in terms of the impact on decision makers' willingness and ability to return to the negotiating table. Reactions can either calm or aggravate the intensity of the crisis and ease or complicate the resumption of negotiations

The implications of these ideas for prospects for peace today are many. But in the wake of the Second Intifada, in which the threat to Israel's security came not from outside spoilers but from its supposed partner in peace, it is worth highlighting one in particular: For peace negotiations to succeed, the parties must not only be truly committed to the nonviolent resolution of the conflict, they must also be committed to being good neighbors and reliable partners against the spoilers within their own communities still bent on perpetuating the conflict through violence. ❖

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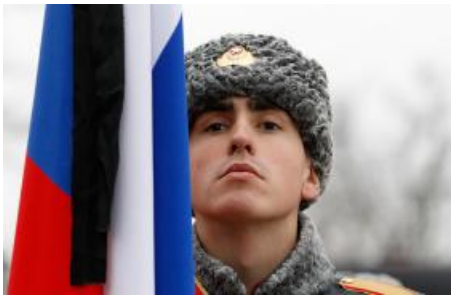

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