

**Managing Conflict: The Key to Bangladesh's Future**  
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So, let's get down to business, as we Americans like to say. *Conflict is a basic element of human society. You're not going to get rid of it.* How could it possibly be otherwise, given the variety of human experience? Just look at Bangladesh—a country where more than nine out of ten people have the same religion, 98 percent share the same ethnicity, and 99 percent speak the same language; yet, conflict is all around us. And conflict is not only inescapable; it's also good. How we manage it; now, that's a serious way to assess our level of civilization.

To what extent do we manage conflict through violence? To what extent do we effectively limit those who can use that violence without facing serious sanction? And to what extent do those people use violence—or the threat of it—*only* for legitimate purposes as defined by law? Finally, to what extent have we overcome violence as the way we manage conflict? Because although *conflict* is basic to human society, *violence* is not. I believe we are gathered here today to help Bangladesh provide better answers to those questions.

Good afternoon. It's a privilege for me to address this group, and I owe a special debt of thanks to Advocate Saramendra Nath Goswami, a dear friend who has battled alongside me for human rights. You know, sir, I never got the chance to express my admiration for your courageous lawsuit that challenged how Bangladesh, which calls itself a *secular* nation, could have an official state religion.

Let me say that I and the people of the United States share your knowledge that the two things are incompatible. Our Constitution's Bill of Rights begins: "Congress shall make no law respecting an establishment of religion." Because once you do that, nothing that follows can change the fact that the supremacy of a particular religion has been written into the law.

And your action was courageous because we know that there are many people, both in and out of government here, who were not pleased with your perfectly legal action. We only hope that their commitment to the rule of law is as strong as yours; so that like yours, it *remains* strong even when things don't go their way. Fidelity to the rule of law is one way we manage conflict, even if we want to change the law. In his "Letter from the Birmingham jail," Martin Luther King made it clear that he and others who engage in civil disobedience should expect, even welcome, being arrested for their illegal actions.

Imagine a world where there was *no* conflict, where people thought alike and agreed with one another. It would be a world that never developed, a world that allowed terrible things to be done to the rare few who expressed different ideas. Fortunately, conflict is always going to be with us, and it is up to each and every one of us to help manage it

Good example. On my very first trip to Bangladesh, I was approached by a religious fundamentalist, a Muslim, who asked if he and an associate could come to my hotel room the next day for an interfaith discussion. I said that I'd love to do it, however, if we're going to have that talk, it makes sense only if we are

totally frank with one another even if that means being uncomfortable or angry. And since I knew we would be spending lot of time on the Middle East, I said that I fully expected them to defend their coreligionists in that conflict, but they needed to know that I would be equally passionate defending mine. We shouldn't expect it to be all smiles and pleasantries. Honesty would mean conflict; and what would be the point of any of it, if we're more concerned about being polite than about honesty, about avoiding conflict over *real* dialogue?

So they dropped by the next day, particularly excited since neither of them had ever met a Jew before; but that created a conflict for them before we even began. When, in true Bengali custom, I offered them the tea and snacks I ordered, they, *contrary to Bengali custom*, refused them. According to another Muslim there, they would not accept food from the hands of a Jew. So, he served it. Then it was my turn. One of my guests was introduced as a former Mujahadin commander in Afghanistan. The war there was raging, and I said that I wouldn't sit with anyone responsible for killing American soldiers. Fortunately for our discussion, he was there fighting the Soviets—an enemy we both had in common, which didn't hurt. Still, that's how the day started; very tense; and after about four hours of it, my visitor said, exasperated, "We disagree on so much."

"True," I replied, "but at least we are not lobbing bombs at one another."

He smiled, so I seized the moment. "We have an expression in the United States. You and I, we can 'agree to disagree.' We can have conflicts while respecting and

maybe even caring for one another.” He liked that, and smiled some more, so I continued.

“In fact I’ve always believed that the true measure of a civil society is the extent to which it can accommodate people who disagree, even passionately, and recognize everyone’s legitimacy.”

Since that time, we’ve been friends, brothers; even though we still continue to agree to disagree on many things. Embracing our conflict, however, allowed us to recognize how much more we had in common. Hold on to that insight about the inevitability of conflict, but not of any particular method for resolving it.

Most people know me as a human rights activist, but like everyone else, I have to make a living, too; and I don’t make a living through human rights, which is a good thing. I long ago decided that if I was going to make any kind of useful contribution, my actions had to be free of any motive other than doing the right thing. I knew there would be people who opposed the cause I was fighting for, and that to stop it, they would try to cast doubt on my *motives*; because there is simply no justifiable reason for opposing freedom and justice. And many did try, but their accusations all proved to be false and therefore could not stop justice from being done.

I’m proud of that, but I still have to make a living. So, one of the things I do is to help people resolve very high dollar workers compensation claims in the United States. In the US, workers compensation is an insurance policy that employers

buy for their employees. This way, workers who get hurt on the job have their medical bills paid for and, in many cases, receive compensation for any permanent damage related to that workplace injury or illness. Claims are adjudicated by legal bodies, and there are 52 different workers compensation systems: one each for the 50 states, Washington DC, and the federal government; and they vary tremendously. I help employers navigate those different systems to achieve the best outcomes for their companies and their workers.

Workers' protection is absolutely necessary, but the *systems* for securing it can be flawed. Some officials try to use it as a form of social insurance regardless of the employer's culpability; there is a great deal of fraud and abuse; and people on both sides get caught up in emotion: workers who want to take out their frustrations on that "big, bad" corporation; and employers who don't like that particular worker and tell me that they don't "deserve a penny." I bring them back to what you all learned as attorneys: *I don't care how you feel; I care about what you can prove.* That is, I care about the law and what the law says is a just resolution.

I help people understand the realities they face and the range of possible outcomes: the costs of resolving the conflict or not, not just the immediate liability; and the realistic range of resolutions: not just what we'd like, but what the law allows us. Then I direct attorneys and others in negotiating a resolution to their conflict that does right by employer *and* employee. No one gets

everything they want, but I hope they all get what they deserve. And maximize your negotiating abilities.

Sometimes, mediation is the only way to bring the sides together because both sides have strengths and weaknesses, good points and bad, and justifiable demands and expectations; and both can get stuck on their own sense of what's right, especially when the conflict has dragged on for years or even decades, such as the minority persecution here and the its ability to occur with impunity, which we will get to soon.

When two parties are locked in conflict, they each are concerned with maximizing *their* rewards. Even if they know that they can't get what they want without rewarding the other party in some way, it is only coincidental to their own goal, a necessary inconvenience. An independent mediator, on the other hand, recognizes the just claims that *both* parties have and is charged with maximizing the benefit to both in accordance with applicable laws.

We can apply those same principles to help Bangladesh get past its greatest challenges and deficits; the greatest of which is the serious gap between the Constitution's *promise* of religious liberty and the reality of life for Bangladesh's minorities, especially Hindus. But let us take notice of the fact that parties who come to the table to settle their differences non-violently have gone through a process before they did, a process that often involved violence.

Pakistan's 1951 census counted Hindus as almost a third of East Pakistan's population. When East Pakistan became Bangladesh in 1971, they were under a fifth; 30 years later under a tenth; and today, they are estimated at about one in 15. Throughout that time, there have been continual atrocities, including murder, rape, child abduction, forced conversion, religious desecration, and more. The spoils often go to party loyalists, regardless of *which* party according to Dhaka University's Abul Barkat; and every Bangladeshi government has been either unable or unwilling to take effective action. Crimes go unpunished, and some government officials have participated in cover-ups and even the crimes themselves.

For decades, successive governments would insist that there was no problem for Hindus and other minorities in Bangladesh, and try to explain away the evidence. One former Bangladeshi official told me that the drop in Hindu population was due to Hindus "sending their children to India for acceptable matches." I believe my response was to ask him if he thought I had the word "stupid" written across my forehead. Those officials frequently justified their assertions by stating that Bangladesh's constitution guarantees freedom of religion—as if the written law is faithfully reproduced in practice; something that flies in the face of the reality that everyone in rooms like this worldwide have seen. Did you ever read the Soviet Union's constitution under Stalin?

But something changed in 2016. In July that year, new Bangladeshi Ambassador to the US Mohammad Ziauddin met with former Congressman Robert Dold and me just outside the House Ways and Means Committee room. The US House

Ways and Means Committee is responsible for taxation, customs duties, and international trade agreements; and the significance could not have been lost on the ambassador. After it became clear that Congressman Dold and I were too knowledgeable to be satisfied with the standard denials and generalities; the ambassador admitted that Hindus do indeed face violence and persecution in Bangladesh. Now, to be fair, he has since tried to walk that back, saying that “further information” convinced him otherwise; but we all dismissed that as a response to criticism from his superiors. Besides, the “damage” was already done, the admission made. As we say in the United States, you can’t put the toothpaste back in the tube once it’s out.

Beyond that, whether the Bangladeshi government realized it, the admission was a good thing. Everyone knew the truth anyway, and the admission told us that we were not dealing with unreasonable people. These are people who would admit their shortcomings rather than lie in the face of massive evidence. We were impressed, and it led to productive discussions among several of us and the good people at the Bangladeshi embassy in Washington.

I changed, too. For years, I insisted that there was no difference between the Awami League and the Bangladesh Nationalist Party, certainly not when it came to protecting Hindus. I would refer to Professor Abul Barkat’s study showing that both parties were equally complicit in stealing assets seized under the Vested Property Act, as well as other data showing no drop in anti-Hindu actions during either party’s reign. But as I had increased talks at the embassy, it was clear to



me that the people there would prefer to see an end to the violence, in fact, recognize that it is contrary to the principles of both the nation and their party.

Let me be clear that I had no intention of backing down on my insistence that the persecution be stopped, however, as the same time, I stopped seeing the Bangladeshi government as nothing other than an adversary. We could work together. [Good eg: law that has an officer whose job it is to be the one to whom the dispossessed go... but the implementation is flawed; what we did to get the land back... ]

The changes on both sides opened the door for real progress and productive negotiations; and it will take a skilled mediator to help us close the gap between the written law and practice, without unfairly tarnishing the Bangladeshi government or hurting its people. We need to get the Bangladeshi government to the negotiating table, and I'll continue to work with your embassy in Washington. I'm also involving more and more serious members of the US State Department and Congress who control things like what we import and who gets UN Peacekeeping funding. I expect that BIMS and/or individual members have standing and influence and that you will make similar efforts here.

A successful mediation requires that the mediators first figure out the motives for those who participate in or are complicit in the ethnic cleansing of Bangladesh's Hindus? After spending over a decade on this, I believe that it is **not** hatred. Some might have contempt, more likely, though, a feeling of entitlement for Muslims over Hindus; but not hatred, which is far more difficult to overcome and

impossible to accommodate. And that small minority for whom hatred is a prime motivator, they need to know that they have no place at the table, and that this government will have no tolerance for them—and that means action not just words.

I believe that the payoffs do include:

- Graft in the form of looted property, bounty for bringing forced converts, spoils confiscated under the Vested Property Act, and so forth.
- Political support from those who benefit from the above spoils and the impunity that exists because of their “influence.”
- Reduced political opposition by those who benefit from the despoliation of Bangladesh’s Hindus, whether monetarily or otherwise.
- And easier management of police and civil service through the rewards or their expectation.

None of those rewards have to come from their current sources, and no one’s money **must** come from graft. They are the current sources, which our mediation must change; that is, replace wealth from graft with wealth from productive economic activity. What are the causes of these dysfunctional sources of information?

- Corruption is Number One, and a tolerance for illicitly gotten gain. If you don’t change that, we can forget about changing these dynamics. You know, we in the United States went through a period when we

had to undergo the same process; but now, there is no tolerance for graft. It occurs, because you can do only so much to control human behavior, but only until people find out, because we have a zero tolerance for it. Is it a stretch for me to think you can do the same? You tell me.

- Bangladesh's Culture of Impunity is almost equally to blame, which allows bad behavior to go unpunished—also something we had to correct. In the end, all of it comes down to contempt for the rule of law, something all of us must fight without exception.
- Fear of what might happen if you call out corruption or do things the right way, but that gets fixed if the rule of law prevails.
- And an economy that is insufficient to support its citizenry without ample amounts of graft. I am *very* confident of the resources at my behest that can help change that for the people of Bangladesh.

With that, there are only three things we still have to determine.

- First, who are the parties involved? Obviously, one is the Bangladeshi government, but who represents the Bangladeshi Hindus? Community organizations? Not alone; they are too vulnerable to pressure and intimidation, plus they have not shown that they would be formidable negotiators. Human rights activists or organizations? Also vulnerable. For either to be effective, there needs to be an outside party that will bring significant negotiating elements and have no fear of retaliation for taking tough stands. So, there should be some combination of the above?

- What legal standing do the parties have to make agreements and concessions? How can they be chosen with credibility for the Bangladeshi Hindu community, the government, and even international parties? A decision best left to lawyers.
- How will agreements be monitored and enforced, including how sanctions for non-compliance would be imposed? Do we include international parties in this, whether the United Nations, SAARC, India, or the United States? There must be teeth in whatever we do! It might take some work to get there, and it must involve all actual and potential parties. While, difficult, however, it is absolutely essential or whatever we do will be just words, no action. And we've had far too much of that.

Thank you.