

**NEGOTIATION AND HOSTAGE TAKING:
THE 1996 JAPANESE EXPERIENCE IN LIMA, PERU**

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The use of hostage taking as a method of securing concessions in negotiation is a tactic nearly as old as civilization itself. In fact, up until as late as the early 20th century, the practice had a measure of societal and governmental support as a quasi-legitimate means by which countries negotiated with one another.¹ The latter half of the 20th century has witnessed a near universal rejection of hostage taking as an acceptable adjunct to lawful dispute resolution. Perhaps not surprisingly, however, the popularity of hostage taking as a terrorist or criminal tactic has far from waned. Recent history abounds with examples of high profile incidents across the world, wherein individuals and groups have taken hostages in an attempt to level the bargaining field when negotiating for concessions with more powerful adversaries. The recent spate of videotaped executions of non-combat hostages in Iraq serves as a chilling reminder of the power of this tactic when utilized as a technique in the context of a terror campaign.² The current paper explores the phenomenon of negotiation within the context of hostage taking. The development of negotiation procedure is first traced through early models of suppression and tension reduction. A variety of techniques peculiar to hostage taking negotiation are then explored, in an effort to develop a thorough understanding of the issues faced by those bargaining for the lives of hostages. Finally, the analysis is applied to a particular hostage-taking incident, the overtaking of the Japanese ambassador's residence in Lima, Peru on December 18, 1996 by the Tupac Amaru Revolutionary Movement. The decisions of both the Peruvian government and the armed revolutionaries who held 72 hostages for nearly four months will be discussed, with an

¹ James P. Needham, *Neutralization of Prison Hostage Situations* (Huntsville, Texas: Institute of Contemporary Corrections and the Behavioral Sciences, 1977).

² "US puts al-Zarqawi's group on terror list", online: Cable News Network <<http://www.cnn.com>>.

eye to understanding how the bloody confrontation some four months later could have been avoided.

An Ancient Bargaining Technique

The phenomenon of terrorist kidnappings and murders of foreign nationals and citizens alike in Iraq would appear to signal a resurgence of interest in the ancient technique of hostage taking. However, despite the intense media scrutiny such contemporary events garner, hostage taking has been used as an effective negotiation tactic since at least the 3rd century B.C. Needham notes that ransom was the primary motivation behind the kidnapping of Richard the Lionhearted in 1193 A.D.; the Soviet Union's motive in taking a number of German citizens hostage in 1920 was to secure the release of Karl Radek, a Soviet agent being held in German custody.³

As media technology developed over the course of the 20th century, hostage taking became even more of an internationally recognized practice. Perhaps no better example of the global flavour of hostage taking can be cited than that of the so-called "Munich Massacre" orchestrated by the Palestinian terror organization *Black September*. On September 5, 1972, the day before the Munich Olympic Games commenced, nine members of the Israeli Olympic wrestling team were taken hostage by eight Arab terrorists. The terrorists' demands were not met, and a disastrous rescue attempt by German police led to the deaths of all nine athletes, five terrorists and one police officer.⁴

The high profile nature of the Munich incident, coupled with the fact that the event unfolded while virtually the entire world watched on television, provided the

³ *Supra* note 1.

⁴ "Munich Massacre", online: Wikipedia <http://en.wikipedia.org/wiki/Munich_massacre>.

impetus for increased study into the phenomenon of hostage taking. It further punctuated the powerful effect that media coverage has on hostage taking incidents.

The Rise of Negotiation on Hostage Taking Incidents

Negotiation as a method of securing the safe release of hostages has become increasingly more common. The development of the phenomenon of negotiation can be well understood by examining to the strategies utilized by the United States to cope with prison riots over the last century. In the latter half of the nineteenth century, the United States supported an approach to riots that advocated for complete suppression of anti-establishment behaviour. Rapid, overwhelming force intended to defeat all resistance was viewed as a required, and somewhat paradoxically humanitarian way of dealing with public unrest.⁵ Quick containment of aggression was viewed as the best way to keep violence from negatively impacting law-abiding members of the community.

As Needham demonstrates, prison riots that took place in the latter part of the 19th and early 20th century were managed almost exclusively by use of force. Negotiation was not seriously considered as a legitimate option during this time period. As the century reached its midpoint, however, law enforcement personnel began to show more restraint in riots where people had been taken hostage. Those incidents in which hostages were not taken continued in general to be resolved by use of force.⁶

Needham notes that, up until the 1960's this suppression-based model of public confrontation characterized law enforcement's approach to dealing with prison riots in the United States.⁷ However, as violent showdowns in prisons continued to develop despite the state's use of (sometimes overwhelming) force to suppress them, a new model

⁵ *Supra* note 1.

⁶ *Supra* note 1.

⁷ *Supra* note 1.

emerged that advocated for a less aggressive approach. Indeed, *confrontation management* was thought to have tremendous potential to resolve conflicts without violence. Considered a precursor to modern day crisis intervention strategies, conflict management's primary goal was *tension reduction* rather than forceful suppression. The theory postulated that, by engaging in dialogue with hostage takers, law enforcement officials could buy time to develop more effective strategies while providing at least a veneer of interest in understanding the hostage taker's cause. It was further thought that the passage of time would allow for initial tensions to reduce, thus making it less likely that a decision to harm hostages would be made in haste.⁸

How to Negotiate: Categorization of Hostage Takers

Clearly, not all hostage takers have the same agenda. Prisoners who have taken prison support staff hostage may wish to bargain for better living conditions, whereas a jilted husband barricaded in a house with his estranged spouse may be less clear what his demands are in the heat of the moment. Terrorists, on the other hand, may view hostage taking as a vehicle through which they can garner international attention for a political cause. In order to determine how best to negotiate a peaceful resolution to a hostage taking incident, therefore, it is important to understand the motivations of the particular hostage takers. This initial assessment allows negotiations to be tailored to meet hostage taker's needs, and enhances the possibility that a non-violent solution can be reached.

It is widely accepted that it is possible, and indeed useful, to categorize hostage takers into three distinct groups, based on the motivations underlying a hostage taking incident. While the nomenclature used to define these groups varies, the literature divides hostage takers into the general categories of *mentally ill, criminal and terrorist*.

⁸ *Supra* note 1.

1. *Mentally Ill*

Mentally or emotionally disturbed individuals account for the bulk of hostage incidents encountered by the New York City Police Department's Hostage Negotiation Team, a statistic that is likely true for most urban centres in North America.⁹ This category refers to disturbed people that may take hostages as a method of calling attention to themselves or their situation.¹⁰ These individuals may experience difficulty with reality testing or may suffer from a host of personality disorders, persistent non-adaptive coping patterns that lead them toward this extreme behaviour.¹¹ Alternatively, their behaviour may be an acute response to a stressor or series of stressors in their environment, such as the loss of employment or interpersonal or domestic difficulties.¹² The mentally ill hostage taker is more likely to make demands that are unrealistic or impossible; in these situations, negotiation is more likely to be viewed as a preliminary tactic to allow time for other strategies to develop, rather than a strategy to resolve the conflict.¹³

2. *Professional Criminal*

The professional criminal may take hostages if surprised by law enforcement during the commission of a crime.¹⁴ Hostages are viewed as a vehicle through which a criminal is able to barter for escape. This type of hostage taking is relatively rare, although its sensationalistic nature may lead to increased media coverage. As Cambria *et*

⁹ Jack Cambria, Richard J. DeFilippo, Robert J. Loudon & Hugh McGowan, "Negotiation Under Extreme Pressure: The "Mouth Marines" and the Hostage Takers (2002) 18 *Negotiation Journal* 331.

¹⁰ "Hostage Negotiation Study Guide", online: Learning For Life <<http://www.learning-for-life.org>>.

¹¹ *Supra* note 1.

¹² *Supra* note 9.

¹³ Ronald D. Crelinsten & Denis Szabo, *Hostage-Taking* (Toronto: Lexington Books, 1979).

¹⁴ *Ibid.*; *supra* note 1.

al note, these hostage takers “...are just criminals who want to minimize their losses, don’t want to get hurt and don’t want to go to jail forever...”¹⁵

3. ***Terrorist/Revolutionary***

Discussion of this category of hostage taker informs both the case study and the majority of the analysis in the current paper. Terrorists tend to view hostage taking as a means to further a political agenda; the highly publicized nature of these incidents allows the terrorist to reach a large audience, often bringing international attention to his or her cause. As Crelinsten and Szabo (1977) note:

“Because of the theatrical aspects of terrorism, specific acts lend themselves to sensational reporting. The terrorist is aware of this and tends to play to his audience.”¹⁶

Terrorist hostage takers differ from the other categories in several important ways. Firstly, the groups themselves tend to be organized into highly structured cells that carry out a carefully planned siege. Victims may be specifically selected, based upon the magnitude of effect their abduction will generate. The specific details of the operation itself may be orchestrated and rehearsed well in advance. Those chosen to take part in the siege itself are often young, educated, politically aware individuals who are willing to give their lives for the cause; further, they are often well trained in combat and military tactics.¹⁷

Secondly, terrorist hostage takers deliberately recruit media coverage of the hostage-taking event. Media coverage is an essential element behind the hostage taking exercise; the terrorist relies on the media to reach a wide audience, in effect making the

¹⁵ *Supra* note 9 at 334.

¹⁶ *Supra* note 13 at 128.

¹⁷ *Supra* note 10.

world a stage for his or her political agenda. As Hassel notes, “[t]he Marxist view is such that a sacrifice without the cooperation of the press would be useless”.¹⁸

The motivation behind a particular hostage-taking incident, as discussed above, will vary based on the circumstances of the hostage taking. Similarly, the strategy utilized to negotiate a peaceful solution will depend largely on the specifics of the particular incident. Despite the case-specific nature of any given hostage taking incident, parallels can be drawn across virtually all hostage-takings.

Negotiation in Hostage Taking – Specific Techniques

Law enforcement or government personnel faced with a hostage-taking incident have a range of options available to them in responding to the crisis.¹⁹ The hostage takers can be ignored completely, or the law enforcement personnel can choose not to communicate with the hostage takers. An all out assault can be initiated, with the intention to end the incident by overwhelming use of force. Alternatively, the demands of the hostage takers can be met without negotiation. However, the particulars of a given hostage taking incident may preclude the use of any of these tactics. If hostage takers issue demands, and threaten to start harming hostages if those demands are not met, a strategy of non-communication will likely lead to disaster. Similarly, if the hostage takers are barricaded, well-armed or willing to die for their cause, an assault cannot be seriously considered unless the situation is sufficiently dire that the risks in allowing it to continue are greater than those inherent in an assault.

More often, some form of negotiation will be considered as part of an overall hostage incident management strategy. As Crelinsten and Szabo indicate, negotiation is

¹⁸ Conrad V. Hassel, “The Hostage Situation: Exploring the Motivation and the Cause” (September, 1975) *The Police Chief* at 55, *supra* note 1 at 10.

¹⁹ *Supra* note 13.

sometimes adopted because no other strategy is available to end the crisis.²⁰ As other strategies develop, negotiation may become less a key feature of crisis management, and more a method of delaying until those strategies can be properly implemented. The following section examines some common negotiation techniques used to resolve hostage-taking incidents.

Tension reduction and Hostage Taking

Stalling for Time

Modern day hostage taking management is largely informed by the theory of *tension reduction*, described above. To that end, a primary strategy in hostage taking negotiation involves *stalling for time*. Stalling for time can have a variety of useful effects upon a hostage-taking incident, from allowing the initial crisis of the hostage-taking incident to pass, to garnering time to develop a more effective resolution strategy. These issues will be discussed in more detail below.

The passage of time is critical in giving the hostage taker the opportunity to consider his actions rationally, rather than reacting in the crisis of the moment. Regardless of the intention of the hostage taker, hostage situations are inherently emotionally charged events for all involved. As time passes, a measure of tension reduction results because it is not physiologically possible to maintain indefinitely the heightened sense of alarm that accompanies emergency situations; “[w]e all pretty much agree that time is our ally. With the passage of time, the emotions de-escalate.”²¹

Stalling for time may allow for the hostage taker to feel a sense of complacency. If an assault is not deemed to be imminent, the hostage taker may fall into a pattern of

²⁰ *Supra* note 13.

²¹ *Supra* note 9 at 332.

predictable behaviour that can be used in planning a rescue attempt. Alternately, exhaustion may set in over time, affording hostages the opportunity to contact rescuers, or even plan an escape.²²

Transference

It is widely recognized that, as time passes in a hostage taking incident, it becomes less likely that captors will harm their hostages. The highly charged environment that captor and hostage share appears to be conducive of the development of a measure of interpersonal relationship. This theory, well known within therapeutic circle, is called *transference*. The Hostage Negotiation Study Guide (2003) indicates that transference is viewed as a function of shared experiences, dependency, proximity and tension of the situation.²³

Transference experiences can be divided into *positive* and *negative transference*. Positive transference may result in the hostage taker being less inclined to harm the hostage, despite initial intentions to do so. Positive transference may take one of two forms. A hostage taker may develop an attachment to his or her captors such that it becomes difficult to harm them; this can become an important protective factor for hostages. Alternatively, hostages may align themselves with the hostage taker's cause, and begin to suspect law enforcements' motivation in ending the siege. This latter phenomenon is generally known as *the Stockholm Syndrome*, so named after a particular hostage taking incident in Sweden.²⁴

It is not surprising that hostages develop a measure of understanding and even support for their captor's cause. Hostage taking incidents are highly charged affairs,

²² *Supra* note 1.

²³ *Supra* note 10.

²⁴ *Supra* note 1.

wherein the decisions of any individual could have life and death consequences for the others. Hostages are thrust into a powerless, submissive role wherein their survival is largely dependent upon the choices of others. At the same time, they are cut off from ordinary sources of support. Both hostage taker and hostages are under threat from outside; the hostage taker faces a deadly assault by rescue forces, while the hostages may be executed during an assault, or fall victim to friendly fire from rescuers. This leads the hostages to identify with their captor. This identification, Campbell notes, is borne out of fear, rather than admiration. Hostages appear to deny the threat created by the hostage taker, focusing instead on the fact that they have not yet been physically harmed or killed.²⁵

Negative transference, or *counter transference*, on the other hand, may place a hostage at increased risk of injury or death. It may be easier to execute a hostage that either fails to identify with his or her captor or is argumentative or difficult.²⁶

Communication

Communication is the essence of negotiation; without it, negotiation cannot take place.²⁷ In fact, containment of a hostage situation without communication may lead to increased anxiety that might erupt in violence. Indeed, communicating with hostage takers allows the tension and anxiety inherent in the event to be released. The hostage taker is forced to articulate in a rational way his or her demands, in effect putting his or her fears and anxiety into words. Such a process results in slowed thinking, and requires the hostage taker to utilize a modicum of rational thought in appraising the situation.²⁸

²⁵ James F. Campbell, *Hostage: Terror and Triumph* (Westport, CT: Greenwood Press, 1992).

²⁶ *Supra* note 1.

²⁷ *Supra* note 13.

²⁸ *Supra* note 1.

Various communication techniques lend themselves to hostage negotiation situations. Therapeutic listening allows the hostage taker to express his or her concerns. The goal is to lead the hostage taker to believe that they are being actively listened to, that the negotiator is concerned about their well being and is committed to resolving the incident in a peaceful manner.²⁹ Tactics like the Salami technique, used by the Viennese Police, focus more upon distraction and diversion while at the same time developing the relationship between hostage taker and negotiator. The extent of a particular negotiation effort will in large part be determined by the reasonableness of the hostage taker's demands, and will establish whether or not negotiation will take place in good faith or will be relegated to the role of a tactic. The use of concessions as a technique in bargaining ensures that no demand is met without something being given in return. These issues will be discussed in more detail below.

Therapeutic Listening

Nosener and Webster categorize a hostage taker's demands into one of two types of behaviour.³⁰ *Instrumental behaviour* consists of demands and objectives that are meant to meet the objectives of the hostage taker. These are best dealt with by direct, objective problem solving. *Expressive behaviour* refers to communication by a hostage-taker that describes his or her emotional state. Therapeutic listening is meant to address the second of these two elements, and consists of the efforts made on behalf of a negotiator to allow the hostage taker the opportunity to vent his or her feelings. Its goal is to reduce tension by allowing a measure of verbal, and thereby emotional, release. At

²⁹ Arthur Slatkin, "Enhancing Negotiator Training" (1996) 65 FBI Law Enforcement Bulletin 61.

³⁰ Gary W. Noesner & Mike Webster, "Crisis Intervention" (1997) 66 FBI Law Enforcement Bulletin 13.

the same time, by employing therapeutic listening skills the negotiator is able to gain a measure of control over the direction of the negotiation.

The negotiator utilizing therapeutic listening skills has a variety of tools at his or her disposal. It is beyond the scope of this paper to inventory the arsenal of techniques used to bring a particular hostage taking to a peaceful conclusion. However, the theory behind therapeutic listening requires the negotiator to develop a rapport with the hostage taker, so that the latter does not view the former as a threat. By breaking down the barriers characteristic of a high intensity hostage-taking situation, the negotiator hopes to effect positive changes in behaviour by removing him or herself as a source of threat; reflecting back feelings in an empathic manner; paraphrasing the hostage taker's words; and suggesting non-violent alternatives.³¹

The Salami Technique

An offshoot of stalling for time, the Salami technique has been used effectively by Viennese Police to reduce the tension inherent in hostage-taking situations. The negotiator approaches the hostage taker in a friendly, non-confrontational manner, and purports to be working to meet all of his or her demands. A series of setbacks and inconveniences present, but both hostage taker and negotiator work together to overcome them. Because the negotiator appears willing to submit to the orders of the hostage taker, and appears helpful, a measure of transference takes place. Over time, the hostage taker loses the motivation necessary to make good on his or her threats toward the hostages. Boredom and frustration eventually take hold, and as the impetus for violence is lost, the hostage taker is more willing to surrender to law enforcement, who have appeared willing to do their best to submit to the hostage taker's demands. According to Clyne, no

³¹ *Ibid.*

hostages have ever been injured by hostage takers when the Salami technique has been allowed to continue for any length of time.³²

Communication as a Bargaining Tactic

In any negotiation, it is important that the parties involved consider the costs and benefits of engaging in negotiation as a form of dispute resolution. As Pirie notes, one must consider whether or not one's goals can be met better, faster or easier by using a different method to resolve a particular dispute: "...put simply, will negotiation produce something better than, or good as, the results you can obtain without negotiating?"³³

Within the context of a hostage taking incident, communication with hostage takers may be viewed either as a way of achieving a peaceful end to a standoff or as a method of delaying while other more feasible strategies are developed. That decision is a function of context, and cannot be separated from the specifics of the crisis situation itself.

Whether or not negotiation is considered a legitimate source of dispute resolution depends on several variables. Yale University sociologist Albert Reiss, suggest six factors that determine whether negotiation will be utilized to resolve a hostage-taking incident.³⁴ Firstly, the value a society places on human life will determine the extent to which negotiation is considered. Clearly, if one views the safety of hostages as a paramount concern, one is more likely to be willing to negotiate a resolution that allows for the safe return of hostages. As Crelisten and Szabo indicate, Western liberal democracies tend to view human life as sacrosanct, something to be protected at all costs.

³² Peter Clyne, *An Anatomy of Skyjacking* (London: Abelard-Schuman Limited, 1973) cited in *supra* note 1 at 8.

³³ Andre J. Pirie, *Alternate Dispute Resolution: Skills, Science, and the Law* (Toronto: Irwin Law, 2000).

³⁴ Albert Reiss, "Chairman's Report on Session III", in Ronald D. Crelisten & Danielle Laberge-Altmejd, eds., *Hostage-Taking: Problems of Prevention and Control* (Montreal: International Centre for Comparative Criminology, 1976), cited in *supra* note 13.

The Western world's preference for solving problems via rational discourse rather than resorting to raw emotion or revenge makes it an ideal environment in which to develop hostage negotiation strategies. Conversely, societies in which human life is not as highly valued are more likely to depend on tactics other than negotiation, such as doing nothing or mounting a full scale assault on hostage takers. If negotiation is viewed by a particular society as capitulation to the demands of violent individuals, it is less likely that members of that society will support a negotiated settlement to a confrontation.³⁵

Secondly, media plays an important role in the decision to negotiate a hostage-taking crisis. Leaders are likely to be judged harshly if they appear incompetent in resolving a particular hostage-taking incident. Negotiation signals a willingness to respect the value of human life; by attempting to resolve a dispute peacefully, the general public is assured that it can trust its leaders not to resort to violent confrontation as a method of dispute resolution unless all other avenues are exhausted.

The extent to which a government possesses a specialized negotiation team is a third important factor in determining whether or not it will negotiate a standoff. Systems that retain personnel specifically trained to resolve disputes without the use of force will be expected to use them as part of any negotiation. Many major urban centres in North America have negotiation task forces that consist of various parts, including command, support, tactical and negotiation units.³⁶ A government's resources in this regard will largely inform its decision to engage in negotiation.

³⁵ *Supra* note 13.

³⁶ Charles Bahn & Robert J. Loudon, "Hostage Negotiation as a Team Enterprise" (1999) 23 Group 77.

Fourthly, the tactical situation will influence the extent to which negotiation is used. If assault is not feasible due to the logistics of a particular incident, negotiation strategies are likely to be utilized, at least initially.

A fifth factor affecting hostage negotiations involves the power imbalance between hostage taker and law enforcement. Despite the fact that hostages are people, and thus are inherently valuable, some are deemed to have more value than others. For example, a foreign government is likely to engage in good faith negotiations when government personnel are being held hostage. Conversely, it would make little sense for a hostage taker to expect government officials to attach the same value to a death row inmate, or fellow hostage taker.

Finally, Reiss punctuates the fact that the extent to which a government will negotiate in good faith depends largely on the reasonableness of the hostage takers' demands. As a general rule, if the demands are deemed to be realistic, negotiation will be considered in earnest. However, where hostage-takers' requirements are beyond the scope of reasonableness, negotiation is likely to be relegated to tactical status, a technique used to distract or stall for time until other options can be developed.³⁷

Management of the Hostage Taker's Environment

The extent to which a hostage taking setting is controlled by negotiators will have a significant effect on the negotiation. Containment of the hostage taker's environment accomplishes several goals. Firstly, it provides an essential component of security. Control of the perimeter of the hostage taking area ensures that negotiators are able to manage who has contact with the hostage takers. Secondly, in the case of terrorist hostage taking incidents, management of the physical area allows law enforcement

³⁷ *Supra* note 34.

officials to have some control over the broadcast of a terrorist's message. The extent to which a terrorist is allowed access to media will often influence the course of negotiations; a positive outcome will be difficult to obtain if negotiators are made to compete for terrorist's attention with outside influences such as media.

Control of Utilities

Bruce Wind offers some suggestions on how best to contain and control the hostage-taking environment. He notes that one of the first tasks of negotiators is to deny access to outside telephone lines. This cuts off a key communication avenue, especially for terrorists, thus ensuring control over the extent to which a terrorist's political message or demands are broadcast to the media. Further, it denies access to sympathetic parties on the outside who may be charged with gathering intelligence and communicating it to the hostage takers inside the perimeter.³⁸

Similarly, Wind suggests that utilities should be controlled from the outside. Cutting off heat, running water and electricity may have several beneficial effects. It necessarily limits hostage taker's access to television coverage of the incident, thereby preventing them from monitoring the effectiveness of their action or gauging popular support for their cause. The removal of such comforts as heat, hot water and toilet facilities has the effect of creating a less comfortable environment within which the hostage takers must operate.

Once the hostage taker's environment has been impoverished by removal of basic utilities, these comforts can be restored in response to concessions made by the hostage taker. The resumption of heating, for instance, can be bargained for in exchange for the release of a number of hostages, or a reduction in the demands made by hostage takers.

³⁸ Bruce Wind, "A Guide to Crisis Negotiations" (1995) 64 FBI Law Enforcement Bulletin 7.

Indeed, as Thompson notes, no concession should be made in the context of a hostage-taking incident without the receipt of something in return.³⁹

Separation of Decision Maker from Negotiator

Generally, it is disadvantageous to have the hostage-taking incident negotiated by the person who is ultimately responsible for deciding whether the hostage takers' demands will be met.⁴⁰ Needham summarizes the potential ramifications of this dangerous move.⁴¹ Firstly, if negotiations take place face to face, the decision maker runs the significant risk that he or she will be taken hostage, as the decision maker often represents a more powerful bargaining chip than the hostages themselves. More importantly, the separation of negotiator from decision maker allows for greater flexibility in the negotiation process. The negotiator is more able to deny the hostage takers' demands without appearing inflexible, as it is not he or she who is saying no, but rather the decision maker. Conversely, as Crelinsten and Szabo note, the negotiator is able to consider demands that the decision maker would reject outright. His or her role in such an instance is to deliver demands to the decision maker, and vice versa, not to decide the appropriateness of those demands.⁴²

Non-Negotiable Issues

Regardless of the threat that hostages face from their captors, it is widely recognized that some issues are beyond negotiation. Guns or other weapons are not considered negotiable items, as it is clearly counter-productive to supply hostage takers

³⁹ Leroy Thompson, *Hostage Rescue Manual: Tactics of the Counter-terrorist Professionals* (London: Greenhill Books, 2001).

⁴⁰ *Supra* note 13.

⁴¹ *Supra* note 1.

⁴² *Supra* note 13.

with the means to amplify their potential for violence and destruction.⁴³ Negotiators will typically not allow non-prescription drugs to be demanded; the introduction of mind or mood altering substances adds an intolerable degree of unpredictability to the negotiation.⁴⁴

Negotiators will rarely allow hostages to be exchanged. Needham suggests two reasons why this is the case. Firstly, by supplying replacement hostages, the positive effect of transference process is interrupted. Hostage takers will not have the same regard for new hostages as they would for those with whom they have spent a period of time, thus making it easier for them to harm the new hostages. Secondly, negotiators run the risk that, during a hostage exchange, hostage takers will receive individuals in return who have more value as hostages. This may lead hostage takers to try to “trade up” their hostages for more influential personnel, thereby derailing negotiation efforts altogether.⁴⁵

The willingness of governments or individuals to pay ransom in exchange for hostages remains an issue of some debate. Many nations (including the United States and Israel) refuse to consider payment of a ransom, as it is thought that doing so only serves to reward the hostage takers, thereby increasing the frequency of attacks.⁴⁶ Conversely, private companies may be more willing to pay for the release of executives held as hostages. Convinced that payment of ransom destroys the deterrent effect of their no ransom policies, some governments have gone as far as to try to enact legislation that prohibits the payment of ransom by family members of hostages.⁴⁷

⁴³ *Supra* note 13.

⁴⁴ *Supra* note 10.

⁴⁵ *Supra* note 1.

⁴⁶ *Supra* note 1.

⁴⁷ *Supra* note 13.

In sum, the negotiator facing a hostage-taking incident has a variety of tools upon which to draw in order to secure the safe release of hostages. Within this context, communication of any kind can be viewed as a form of negotiation; the latter cannot take place without the former. Whether negotiation is used as a legitimate attempt to find a peaceful solution to the incident or whether it is relegated to the role of a bargaining, stalling or distraction tactic is largely dependent upon the context of a particular hostage-taking event.

Given the inherent context-dependency of hostage negotiation, it is perhaps most useful to analyze a particular hostage taking incident, in order to better understand the role negotiation plays in its resolution. To that end, the remainder of this paper will focus on the events surrounding the 1996 siege of the Japanese Embassy in Lima, Peru by the Tupac Amaru Revolutionary Movement. The siege stands as the longest hostage-taking incident in Latin American history, lasting some 126 days⁴⁸, and provides a fascinating backdrop against which to showcase the practical application of negotiation techniques used in the context of a high profile terrorist hostage taking incident.

The Siege

On the evening of December 17, 1996, the Japanese ambassador to Peru was hosting a reception honouring Japanese Emperor Akihito's birthday. Over 600 guests, comprised of well-placed Japanese business leaders and foreign dignitaries from countries around the world, were in attendance. Among them were the ambassadors from a half dozen Latin American countries, South Korea, Egypt, Austria, Cuba, Canada and

⁴⁸ Steve Macko, "Peru Hostage Crisis Comes to a Violent End", online: Emergency Response and Research Institute <<http://www.emergency.com/peruhos7.htm>>.

Japan. Numerous Peruvian political and military figures were also in attendance, including Peru's Foreign Minister, Francisco Tuleda.⁴⁹

It was during this function that 14 members of the Tupac Amaru Revolutionary Movement, known by its Spanish acronym *MRTA*, staged their assault. Dressed as waiters, rebel leader Nestor Cerpa and the other members of the heavily armed *Juan Santos Atahualpa* Commando Unit slipped past approximately 300 Peruvian police officers and security officials that formed a human barricade outside the residence. Within minutes, the insurgents had control of the residence and its occupants, drawing to a close the initial scenes of what was one of the most dramatic and spectacular hostage taking incidents ever executed.⁵⁰

Prior to December 17, 1996, MRTA had toiled in near obscurity, beyond the consciousness of much of the world outside Peru. A Marxist revolutionary faction based on the teachings of Fidel Castro, MRTA surfaced from the climate of political and economic upheaval that plagued Peru in the early 1980's. Even within the borders of Peru, MRTA's emergence was overshadowed by the staggering violence and destruction perpetrated by *Sendero Luminoso* or *Shining Path*, the country's largest and most feared terror organization. Founded in 1984 by Victor Polay, MRTA was often touted as *Sendero Luminoso*'s smaller and weaker counterpart. Despite lacking *Sendero*'s strength in numbers, however, MRTA struck a chord with many of Peru's poor, especially in the north-central province of San Martin.⁵¹

⁴⁹ See generally Steve Garrison, "A Man Between Two Countries: President Fujimori and the Japanese Ambassador's Residence Hostage Crisis" (Paper presented to the Annual Meeting of the International Studies Association, New Orleans, LA, March 2002).

⁵⁰ Alejandro Bermudez, "The Spiritual Dimension of the Hostage Drama", online: Catholic.net <<http://www.catholic.net/rcc/Periodicals/Igpress/CWR/CWR0697/peru.html>>.

⁵¹ *Ibid.*

As the 1980's wore on, MRTA's tactics began to resemble those of *Sendero Luminoso*. The group waged a campaign of threatening, kidnapping and murder in Peru's urban centres, while it fought with *Sendero* for control of Peru's lucrative coca industry.

The election of Alberto Fujimori to Peru's presidency in 1990 brought sweeping changes to government policy regarding terrorism. Fujimori, the son of Japanese immigrants to Peru, rose to power on a platform that promised to stamp out terrorism, while at the same time deliver dramatic reforms to Peru's struggling economy.

Fujimori set about making good on his promises by aligning himself with Peru's military commander and the Director of the Ministry of Intelligence. Together, the coalition initiated a wide spread assault on terror groups that saw the inner circles of both *Sendero Luminoso* and MRTA either killed or imprisoned by the early 1990's. Concurrently, Fujimori's government developed a reputation for dealing with terror suspects in a swift and brutal fashion; reports of widespread human rights abuses were common. Amid this no tolerance, autocratic environment, several hundred rebels accepted government offers of amnesty in exchange for their surrender.⁵²

The capture of MRTA's co-founder Victor Polay in 1993 seemed to sound a death knell for the movement. With almost its entire leadership imprisoned, MRTA appeared on the brink of collapse. Nestor Cerpa, MRTA co-founder, military commander and leader of the *Juan Santos Atahualpa* Commando Unit, however, thought differently. Cerpa, a 43 year old former textile unionist, appeared destined to bring the revolutionary message of MRTA to the world with one sensational, dramatic operation; on December 17, 1996, that operation commenced in earnest at the Japanese ambassador's residence.

⁵² *Supra* note 49.

On December 18, Nestor Cerpa, calling himself *Comrade Huerte*, publicly declared his opening gambit. *Communiqué One* demanded that the Peruvian government release 450 MRTA rebels imprisoned around the country; that the rebel commando unit be allowed to retreat to their jungle headquarters unhindered; that the Peruvian government revisit its economic policies; and that a ransom or “war tax” be paid to the rebels.⁵³ Cerpa advised that if his demands were not met within 24 hours, he would begin executing hostages, starting with Peruvian Foreign Minister Francisco Tuleda.⁵⁴ At the same time, Cerpa released 200 women and elderly people from the embassy.⁵⁵

Within 24 hours, Japan had formulated its own response to the hostage crisis. Japanese Prime Minister Hyutaro Hashimoto, while supporting the Peruvian government, indicated that his priority was the safe release of all hostages. Japan, well known for its soft stance on terrorism, was publicly criticized by the United States, who advised the Fujimori government to remain steadfast and not give in to terrorists.⁵⁶

Fujimori did not respond publicly to MRTA’s demands before the 24-hour deadline set by Cerpa passed. Despite this fact, Cerpa did not follow through on his promise to execute Francisco Tuleda. Prior to the Peruvian government’s official response on December 19, utilities to the residence were cut off. Fujimori then issued a series of statements to the media, refusing to grant the terrorist’s demands and stating that Peru would not give concessions to terrorists.⁵⁷ Two days later, Fujimori addressed the world media, stating that while he would not negotiate with terrorists, he was willing to

⁵³ *Supra* note 49.

⁵⁴ *Supra* note 49.

⁵⁵ “In the Spotlight: Tupac Amaru Revolutionary Movement”, online: Center for Defense Information <<http://www.cdi.org>>.

⁵⁶ *Supra* note 49.

⁵⁷ *Supra* note 49.

work toward a peaceful solution to the crisis. He further demanded that the commando unit headed by Cerpa surrender and release all hostages.⁵⁸

Electricity was restored to the mansion on December 21, despite the government's alleged refusal to negotiate. In response, Cerpa responded via short wave radio that he also sought a peaceful resolution to the hostage incident. Within a day, 225 more hostages were released; Cerpa stated his intention to free those captives who were not directly connected to the Peruvian government.

By December 28, the government's lead negotiator, Domingo Palermo, along with Juan Luis Cipriani, the Bishop of Lima, and Michael Minning, head of Peru's Red Cross, had met in person to discuss an alternative solution. Palermo suggested a softened government position: safe passage for the rebels to a neutral country in exchange for the release of the remaining hostages. MRTA responded to the middle of the road proposition by releasing a further 20 hostages. Media outlets began suggesting that a compromise position was being seriously considered.⁵⁹

However, Cerpa rejected Fujimori's offer. In doing so, he publicly criticized the Peruvian President's government as a dictatorship masquerading as a democracy.⁶⁰ Fujimori ceased all formal negotiations, while Cerpa refused to release further hostages. A stalemate had been reached in the negotiations.

In the face of a lack of progress, Fujimori advised the media that he was not planning a military assault on the compound. He again offered safe passage for the hostage takers to a neutral country in exchange for the safe release of all hostages, adding that his government had begun to review the sentences of some imprisoned MRTA

⁵⁸ *Supra* note 49.

⁵⁹ *Supra* note 49.

⁶⁰ *Supra* note 49.

members. Further talks were scheduled for January 12, 1997; however, as Cerpa refused a government request not to publicly call for the release of his imprisoned comrades, the talks were cancelled. Despite the cancellation of the peace talks, Fujimori tendered an offer via his negotiator that an assault on the compound could be avoided if MRTA promised not to harm any hostages. This offer too was dismissed.

January 15, 1997 saw the first legitimate MRTA response to the Peruvian governments' offers. Cerpa agreed to continue negotiations as long as Fujimori would *consider* the release of MRTA rebels imprisoned in Peruvian jails. A Guarantors Commission was struck, comprised of negotiators and neutral parties. The Commission's objective was to act as an intermediary body through which each party could tender offers. MRTA publicly rejected Fujimori's offer of safe passage, yet at the same time indicated that Europe would be its top choice for asylum. The talks became bogged down, however; as the two sides could not agree on who should be part of the Guarantors Commission.

On January 25, a final hostage was released due to illness. The captive was Peru's General of the National Police. This event served as a turning point in the negotiations, as the General had feigned illness; once released, he was able to provide the government with intelligence that played a key role in the final solution to the hostage crisis.

The General was able to offer critical information regarding the MRTA rebels and the hostages' daily routine. Perhaps Nestor Cerpa's greatest mistake was that he allowed his unit to settle into a daily pattern of behaviour that included playing a four-aside soccer match every afternoon in a large room in the mansion. The hostages were allowed to nap

during this period of time; some of the rebels also took advantage of the down time to sleep. Others watched the soccer game, often putting down their weapons in the process. Ultimately, it was Cerpa's lack of vigilance in this regard that led to his downfall.

Talks resumed on February 11, when Cerpa agreed to personally attend a Guarantors Commission meeting. The meeting, which lasted over four hours, produced no concrete results, but was marked by a conciliatory tone. The mood was further encouraged by news that Fujimori was travelling to the Dominican Republic to discuss possible amnesty for the hostage takers. Fujimori also made a surprise trip to Cuba, where he reviewed amnesty options for the rebels. Fidel Castro reportedly responded by stating that he would allow the MRTA commandos access to Cuba if the Peruvian government formally requested he do so.

Publicly, Cerpa continued to stonewall. He indicated that the rebels would not seek asylum in the Dominican Republic; at the same time, media reports hinted that negotiations for the MRTA commandos to travel to Cuba were nearing completion.

Talks were again stalled when Cerpa learned that the Peruvian military had begun digging tunnels under the Japanese compound. The tunnelling ceased, and talks quickly resumed. Peru's negotiator Palermo tendered a new version of the Fujimori offer: Cerpa and his three top lieutenants would be allowed to leave Peru for Cuba, and the remainder of the commando unit would be pardoned. Additionally, the government agreed to improve prison conditions in Peru. Again, the dialogue broke down when the two sides could not reach agreement on the details of the plan.

As February gave way to March, rumours swirled through the media that a solution that included the release of up to 250 MRTA prisoners had been reached in

principle. Fujimori denied these rumours; however word rapidly spread that the MRTA commandos had agreed to amnesty in Cuba.

On April 11, Cerpa met with Guarantors Commission officials across the street from the Japanese ambassador's residence. The rebel leader thereafter engaged in daily meetings with negotiators; by all accounts it appeared that a peaceful conclusion to the four-month hostage crisis was all but secured.

The Rescue Mission

It was in this atmosphere of hope and conciliation that President Fujimori launched the assault that ended the 126 day-old siege of the Japanese ambassador's residence.⁶¹ On Sunday April 22, 1997 at 3:23pm, 140 Peruvian Special Forces personnel stormed the residence. Three large explosions tore apart the first floor of the building, killing or injuring as many as 11 of the 14 rebels. The Peruvian military strike team entered the compound from tunnels dug underneath the residence; the heavily fortified front door of the residence was also detonated. The remaining MRTA members were cut down in gunfire before they could scale the stairs leading to the second floor, where the bulk of the hostages were being held. Two rebels managed to barricade themselves in a second floor room; they were eventually killed after the commandos blew open a hole in the roof of the building and shot them. Rumours abounded that several MRTA rebels attempted to surrender to the Peruvian assault force, and were summarily executed.

Within 16 minutes, the Japanese ambassador's residence was in Peruvian government control. The operation resulted in the rescue of 71 of the remaining 72 hostages; one hostage, Peruvian Supreme Court Judge Carlos Giusti, died from a heart

⁶¹ See generally *Supra* note 50.

attack after receiving a wound to his femoral artery. Two Peruvian commandos were killed in the raid, along with all the MRTA rebels, including Nestor Cerpa.

Despite its violent conclusion, the 1996 siege of the Japanese ambassador's residence remains a fascinating study in hostage negotiation techniques. The next portion of this paper will review some of the tactics used in this protracted negotiation, and the extent to which they were effective. The final section will review ways in which the bloody assault could have been avoided, with an eye to assessing whether or not critical errors made by both parties doomed the negotiation to failure.

Communicating Without Communicating

Following the siege, Alberto Fujimori declared that his government would not negotiate with terrorists; in doing so, he placed himself at odds with Japan, which typically offered concessions to terrorists in exchange for hostages.⁶² Despite this initial hard stance, it was clear from the beginning that the Fujimori government intended to establish and maintain communication with the MRTA rebels. Fisher and Ury recognize that communication of any kind with terrorists is a form of negotiation, even if there is no direct dialogue between the parties.⁶³ The authors note that, by maintaining lines of communication, one has the opportunity to learn of the terrorists' interests, and attempt to reach a peaceful settlement without necessarily capitulating to their demands. A public refusal to negotiate is often little more than a tactic, an effort to use the willingness to enter into negotiations as a method of securing concessions from one's opponent. Indeed, Fujimori's refusal to offer concessions was followed by his desire to seek a peaceful solution to the conflict. He stated publicly that a military attack could be avoided if the

⁶² *Supra* note 49.

⁶³ Roger Fisher & William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, 2nd ed. (Boston: Houghton Mifflin Company, 1991).

rebels surrendered their arms and released the hostages. Fujimori clearly planned to bargain with the MRTA hostage takers, even though his opening position appeared to preclude negotiation with terrorists as a viable option.

Soon after the siege began, the Peruvian government shut off all utilities to the Japanese ambassador's residence. This technique, described earlier, is common in hostage taking situations. By removing comfort items such as running water and electricity, negotiators obtain control over the physical hostage-taking environment. They are then able to offer to resume utilities in exchange for hostages. While media reports of the siege are not specific on this point, it is noteworthy that following the resumption of utilities on December 21, 1996, 225 more hostages were released.

Transference

Peru did not publicly respond to Nestor Cerpa's threat to execute hostages within 24 hours if his demands were not met. However, despite this fact, no hostages were killed. Indeed, as time passed, Cerpa did not repeat his threat to harm hostages. This decision played a critical role in the siege negotiation, as Fujimori stated publicly that his forces would storm the residence if hostages were threatened with weapons.⁶⁴

It is reasonable to conclude that, as time passed, a degree of transference developed between the MRTA rebels and their captives. The phenomenon of transference stipulates that interpersonal relationships develop between hostages and hostage takers as a function of the interdependence between the two groups. Transference theory suggests that the longer hostage takers and their captives spend together, the less likely they are to be executed in the name of the hostage taker's cause.

⁶⁴ *Supra* at 49.

Indeed, there was evidence to support this conclusion. Alejandro Bermudez reported in his article that within a month, some of the rebels began voicing their discontent with the siege. While several complained to the hostages about the poor quality of food brought in by the Red Cross, others expressed their desire to return to their home province, rather than travel to Cuba. Still others approached Bishop Cipriani, asking him for holy cards; a priest being held hostage was asked to assist a rebel in preparing for his first communion.⁶⁵ It appears that a measure of interpersonal bond legitimately developed between hostage takers and captives in this case.

Transference, it has been discussed, is often viewed as a phenomenon that affects both hostages and hostage takers. Indeed, it is reasonable to conclude that, as time passed, the hostages extended some measure of positive regard to their MRTA captors. Bishop Cipriani, initially a hostage himself and later a principal member of the Guarantors Commission, wept openly at a press conference following the assault. As he later explained:

My tears were the demonstration of a deep and sincere pain, which I had repressed during the long months in which I had assumed responsibility for the mission entrusted to us – a mission which ended, unhappily, along with the lives of our brothers.⁶⁶

Cipriani's attachment to the MRTA rebels that posed a legitimate threat to his life can be understood within the context of transference theory.

The Guarantors Commission

The development of the Guarantors Commission marked an important juncture in the Lima hostage crisis. This neutral body was comprised of various former hostages who were diplomatic personnel, and other parties determined not to have a private

⁶⁵ *Supra* note 50.

⁶⁶ *Supra* note 50 at 7.

interest in the outcome of the negotiations. The Commission established a neutral setting in which negotiations would take place, developed a protocol of membership and established deadlines for resolution of the conflict.⁶⁷ Unfortunately, the utility of the Commission was compromised by the fact that the parties had difficulty agreeing on who should sit on the Commission. Despite initial disagreement, the Commission provided the mechanism through which the majority of the negotiations took place.

The Guarantors Commission is a classic example of the separation of negotiator from decision makers, a principal technique utilized in hostage taking negotiation. Despite the fact that the Peruvian government's principal negotiator, Domingo Palermo, was a part of the Guarantors Commission, it still afforded a sufficient measure of separation between Fujimori and Nestor Cerpa such that legitimate bargaining could take place. Even when formal talks between the two parties broke off, each side continued to meet with representatives of the Guarantors Commission, thereby maintaining the channels of communication.⁶⁸

The Guarantors Commission was also the conduit through which the Peruvian government tendered offers to the rebels. The Commission's structure allowed for neutral members to receive and disseminate information from Fujimori in particular, while allowing him to appear to be outside of the negotiations themselves. By doing so, Fujimori was able to publicly maintain his no tolerance stance on terrorism, yet work to secure the release of hostages by offering various revised positions to Cerpa's representatives.

⁶⁷ *Supra* note 49.

⁶⁸ *Supra* note 49.

Avoiding the Assault: Strategies for a Peaceful Resolution

In the aftermath of the assault that resulted in the safe rescue of 71 of 72 hostages, the Peruvian government received nearly uniform international support for the daring and overwhelmingly successful counter-terrorism raid orchestrated by its military forces.⁶⁹ Alberto Fujimori, viewed by his own people as a tenacious defender of democracy, saw his approval ratings reach an all-time high of 65%, up from 38% prior to the raid.⁷⁰ At the same time, he succeeded in eliminating what remnants of MRTA leadership remained, in effect quashing the revolutionary movement altogether. It was by all accounts an overwhelming victory for the Peruvian president. However, as information began to circulate about the 126-day siege, questions were asked about the tactics used by the Peruvian military force to end the crisis. In particular, one of Peru's prominent, left-wing newspapers alleged that the Peruvian soldiers had deliberately killed MRTA members who had tried to surrender, fuelling rumours that the counter-terrorist force had been ordered to carry out the extra-judicial killings of all hostage takers.⁷¹ The final section of this paper reviews possible ways in which the violent confrontation that ended the hostage crisis could have been avoided. The positions of each side will be related to mainstream negotiation theory as it pertains to bargaining for hostages. As the following discussion suggests, it is unclear whether the Fujimori government ever viewed negotiation as a viable solution to the siege, or whether the entire negotiation was simply a method used to stall for time until a more attractive solution presented. Key events that impacted the decision to attack the compound rather than continue to negotiate will be

⁶⁹ Clark Staten, "Criticism of Peru Hostage Rescue is Simply 'Wrongheaded'", online: Emergency Response Research Institute <<http://www.emergency.com/peruhos7.htm>>.

⁷⁰ *Supra* note 49.

⁷¹ *Supra* note 69.

reviewed, along with a brief discussion of Peru's political climate that played a prominent role in the decision to storm the ambassador's residence, even in the face of what appeared to be a viable non-violent solution.

Fujimori's Gambit: Communication as a Tactic

In the early days of the siege, Alberto Fujimori faced a disastrous situation. The MRTA commando unit held over 600 dignitaries from countries around the world in a compound that had been heavily fortified by the Japanese government. Further, as the ambassador's residence was considered Japanese soil, it would be crucial to receive Japanese approval for a rescue operation. While the Japanese publicly threw their support behind the Fujimori government, they also expressed their desire for a peaceful solution.⁷² However, Japan was also known internationally as a nation that was soft on terrorism. This reputation was earned following a 1977 hijacking incident in which the Japanese government capitulated to Japanese Red Army demands for a \$6 million ransom in exchange for some of the hostages.⁷³ Any raid that costs the lives of hostages would surely have substantial negative impact for both Peru and Fujimori.

While it appeared throughout the four-month siege that Fujimori was willing to accept a negotiated settlement to the crisis, the planning for an all-out assault began almost immediately. As the 24-hour deadline set by Nestor Cerpa passed without an execution, Fujimori met with his Council of Ministers to review all possible options available, including military attack.⁷⁴

⁷² See generally *Supra* note 49.

⁷³ Steve Macko, "Japan's Lack of Crisis Management Expertise", online: Emergency Response Research Institute <<http://www.emergency.com/peruhos7.htm>>.

⁷⁴ *Supra* note 49.

The decision to storm the ambassador's residence can be explained by utilizing Albert Reiss' six-part analysis, discussed earlier.⁷⁵ These factors help determine when negotiation will be used as a legitimate method of dispute resolution, or merely as a way to stall for time until other options, such as a military assault, become feasible.

The Role of Values

As Reiss indicates, negotiation is more likely to be used in earnest by a society that holds human life in high esteem. This is the case in Western liberal democracies, where negotiation is a first line response to hostage taking incidents.

However, it is open to debate whether or not the same could be said of the situation in Peru in 1996. Alberto Fujimori had developed a reputation of dealing with suspected terrorists with an iron fist; human rights groups reported extrajudicial executions, hooded military courts and summary convictions during this tumultuous period of Peru's history.⁷⁶ However, given the international nature of the hostage taking, coupled with the fact that it took place on Japanese soil, may have significantly influenced Fujimori's decision to negotiate.

Involvement of an Audience

From its outset, the spectacular nature of the Japanese ambassador's residence siege attracted a tremendous amount of international media attention. Rebel leader Nestor Cerpa had a reputation for possessing the ability to masterfully manipulate the media, a skill developed from his early years as a union leader in the late 1970's.⁷⁷

The people of Peru elected Fujimori in part due to his tough stance on terrorism. As Reiss points out, the general public gauges its trust in a leader based upon his or her

⁷⁵ *Supra* note 13.

⁷⁶ *Supra* note 49.

⁷⁷ *Supra* note 50.

actions in times of crisis. Negotiation thus may be a legitimate source of dispute resolution if the general populace expects negotiation to take place.

The Japanese ambassador's residence siege involved two distinct public bodies. The international community, whose citizens comprised many of the hostages, generally expected some form of negotiation to take place. While the United States and other nations, including Canada, urged Peru to take a "no concessions" stance on terrorism, Fujimori was still expected to make some effort at finding a peaceful resolution to the conflict. Conversely, Fujimori faced increasing unrest among his own people. Any agreement to the MRTAs' demands could be seen as capitulation to terrorism.

It is thus not surprising that, following the assault, Fujimori's approval rating in his own country reached a record high. By storming the residence, eliminating the terrorist threat and saving most of the hostages, Fujimori was able to restore faith in his government as one that would stand up to revolutionary threats, and crush those who use violence and terror to overthrow a democratically elected leader.

Development of Hostage Negotiation Teams

Peru, by all accounts, possessed an adequate team of hostage negotiators. Given the international nature of the crisis, many countries offered their support in the development of the Guarantors Commission, which formed the setting in which negotiations took place. Domingo Palermo, Peru's Minister of Education, was the government's lead hand negotiator, but all meaningful negotiations took place in the presence of neutral observers.⁷⁸ It does not appear that a lack of skilled negotiators played a significant role in Fujimori's decision to use negotiation more as a tactic, rather than a genuine dispute resolution tool.

⁷⁸ *Supra* note 49.

Operational Difficulties

Clearly, Japanese ambassador's residence was a nearly impenetrable fortress against which to plan an assault. Given the dozens of hostages, the relatively large commando unit holding them and the significant firepower possessed by the rebels, any rescue mission would have to be perfectly planned and executed. It was simply not possible to organize such an involved attack in the short term; as such, negotiation was a preferable first choice for Fujimori.

A turning point in the negotiation took place on January 25, 1997, when the MRTA rebels released the General of the National Police, apparently due to illness. As mentioned above, the General feigned illness in order to secure his release; upon being released, he was able to supply critical information regarding the movement of rebels inside the residence, their daily routine and where in the residence the hostages were being held. This information provided the basis upon which the assault was finalized. Had the General not been released, any attack on the compound could have resulted in many more hostage casualties.

Hostage – Target

As Reiss indicates, all hostages are not created equal.⁷⁹ The value a government places upon the safe release of hostages will inevitably inform its willingness to negotiate. In the instant case, the hostages were not only numerous, but of an international character. It was simply not acceptable to storm the residence, risking the lives of so many highly placed individuals. As long as the balance of power lay with the MRTA rebels, it is understandable why negotiations were pursued. Once the balance of

⁷⁹ *Supra* note 34.

power shifted to the Peruvian government, negotiation became a less attractive option than a full-scale attack.

Goals of the Hostage Taker

Reiss' final head of analysis centres upon the viability of the hostage takers' goals. Where those goals are deemed to be realistic and achievable, negotiation may be viewed as a practical option.

It is perhaps at this critical juncture that the decision to assault the compound was forged. As discussed above, the legitimacy of Alberto Fujimori's leadership was to a large extent defined by the Japanese ambassador's siege. By yielding to the demands of armed terrorists, he risked losing the faith of his own people. Further, capitulation of any sort could provide the impetus for further terrorist acts in Peru by those seeking to topple the democratically elected government. These facts no doubt played a significant role in Fujimori's decision to investigate the viability of a military raid on the ambassador's residence on the initial day of the crisis.⁸⁰

Nestor Cerpa's demands began with the release of 450 of his imprisoned comrades. This was, from the outset, an unacceptable option for the Fujimori government, a fact that was punctuated at nearly every negotiation session.⁸¹ It appears that Cerpa himself was aware that his initial position was unreasonable, but he was convinced that a final negotiated solution would allow for some imprisoned MRTA members to be released. Bishop Cipriani made extensive efforts to make Cerpa understand that Fujimori would not allow for the release of any imprisoned MRTA

⁸⁰ *Supra* note 50.

⁸¹ *Supra* note 49.

members. Despite this fact, Cerpa appears to have continued to view the Peruvian leader's position as an elaborate bluff.⁸²

Cerpa's wife Nancy Gilvanio and high profile American activist Lori Berenson were among those held in Peruvian jails. A notebook kept by Cerpa during the siege was discovered following the rescue operation; in it, he reportedly wrote that he expected Fujimori to accept his final offer, which was for the release of 20 MRTA rebel leaders, including Gilvanio and Berenson. As Alejandro Bermudez writes, Cerpa based this assumption on three facts. Firstly, the intimate involvement of the Catholic Church in the form of Bishop Cipriani, was viewed as a protective factor. Secondly, Cerpa believed that European sympathy for MRTA's cause would preclude a full out assault. Finally, Japan's preference for a negotiated settlement, together with its historical capitulation to the demands of terrorists, would rule out Peru's use of force to solve the dispute.⁸³

Fatal Miscalculations

Judges in retrospect, Cerpa's belief that a negotiated settlement was viable proved to be a fatal flaw in his plan. While Bishop Cipriani was sympathetic to the cause of the rebels, Nestor Cerpa's unwillingness to accept what was viewed as the government's final offer ultimately eroded the Church's support. Bermudez notes that Lima's Cardinal Augusto Vargas Alzamora met privately with Cerpa, and demanded that he accept Fujimori's offer of safe passage to Cuba, payment of a ransom and promise to revisit the conditions of imprisoned MRTA members. Cerpa's refusal to accept what was considered a reasonable offer paved the way for a rescue by force.

⁸² *Supra* note 50.

⁸³ *Supra* note 50.

Similarly, Cerpa overestimated the importance of European sympathy for MRTA's cause. The United States, along with several other western nations (ultimately including Japan) placed their support behind Fujimori's position; members of Britain's MI 6, Scotland Yard's counter-terrorist unit and the U.S. Delta Force were rumoured to be involved in planning the rescue mission.⁸⁴ With the United States' support, the European position was a less significant factor.

Finally, Japan's reluctance to support a military solution was overshadowed by the need to secure the safety of the hostages. Although he did not see eye to eye with his Peruvian counterpart on many issues, Japanese Prime Minister Hyutaro Hashimoto ultimately pledged support for any plan that saw the hostages released unharmed. The carefully staged assault promised just such an outcome.

Interestingly, Fujimori declined to seek the Japanese government's consent for the raid; he did not even inform them that a military attack was pending. President Hashimoto indicated later that, while his government was not made aware of the operation beforehand, the urgency of the matter justified the means by which it was executed. The fact that the raid was an overwhelming success undoubtedly played a significant role in Hashimoto's conciliatory tone in its aftermath.⁸⁵

In a subsequent interview with Peruvian media, President Fujimori stated that, had Cerpa and the other rebels dropped their demand to release prisoners, he would have agreed to provide safe passage to Cuba along with payment of the ransom. Bishop Cipriani, who as a principal member of the Guarantors Commission was intimately

⁸⁴ *Supra* note 49.

⁸⁵ *Supra* note 49.

involved in the negotiations, reportedly confirmed this statement.⁸⁶ If true, this information stands as a sad reminder of how close the parties were to a negotiated settlement that would have spared the lives of the MRTA guerrillas, Peruvian military personnel and the hostage killed in the assault.

In sum, had Cerpa better gauged the political climate in which the hostage siege was situated, he may have been able to take steps that would have avoided its bloody conclusion. Whether or not he considered a peaceful solution to be his best option, or whether martyrdom for the MRTA cause was preferable will no doubt remain a source of mystery and contention.

Negotiation as a method of modern dispute resolution represents an outgrowth of the theory of tension reduction, which informs negotiation within the context of hostage taking. The tension reduction model, largely a response to the ineffectiveness of the suppression theory in reducing violent outbursts in the prison population, led to the development of a variety of procedures unique to hostage taking incidents. Many of these hostage specific techniques were reviewed in the current paper, with the intention of providing a backdrop for discussion of a particular hostage taking incident. The 1996 siege of the Japanese ambassador's residence in Lima, Peru stands as a study of negotiation within the context of a protracted, international hostage-taking incident. The 126-day siege ended violently with the death of all 14 MRTA revolutionary commandos; two Peruvian military personnel and one hostage also lost their lives. While the military assault was touted internationally as a spectacular success, it overshadowed the failure of the parties involved to reach a peaceful settlement. As the siege wore on, negotiations that initially appeared to be undertaken in earnest by the Peruvian government proved

⁸⁶ *Supra* note 50.

ultimately to be used as a bargaining tactic. Indeed, once intelligence deemed to be vital to the planning of an all out assault was secured, it appears negotiation was discarded as a legitimate source of dispute resolution. Key miscalculations, coupled with political exigencies in Peru at the time led Peruvian President Alberto Fujimori to conclude that his best option under the circumstances was to proceed with a military attack. Fujimori's decision underscored the fact the willingness of parties to a hostage taking dispute to negotiate its resolution is inherently tied to a myriad of issues, many of which may exist separate and apart from the dispute itself.

BIBLIOGRAPHY

- Bahn, Charles & Louden, Robert J., "Hostage Negotiation as a Team Enterprise" (1999) 23 Group 77.
- Bermudez, Alejandro, "The Spiritual Dimension of the Hostage Drama", online: Catholic.net <<http://www.catholic.net/rcc/Periodicals/Igpress/CWR/CWR0697/peru.html>>.
- Cambria, Jack, DeFilippo, Richard J., Louden, Robert J. & McGowan, Hugh. "Negotiation Under Extreme Pressure: The "Mouth Marines" and the Hostage Takers" (2002) 18 Negotiation Journal 331.
- Campbell, James P. *Hostage: Terror and Triumph* (Westport, CT: Greenwood Press, 1992).
- Clyne, Peter. *An Anatomy of Skyjacking* (London: Abelard-Schuman Limited, 1973).
- Crelinsten, Ronald B. & Szabo, Denis. *Hostage-Taking* (Toronto: Lexington Books, 1979).
- Fisher, Roger & Ury, William. *Getting to Yes: Negotiating Agreement Without Giving In*, 2nd ed. (Boston: Houghton Mifflin Company, 1991).
- Garrison, Steve. "A Man Between Two Countries: President Fujimori and the Japanese Ambassador's Residence Hostage Crisis" (Paper presented to the Annual Meeting of the International Studies Association, New Orleans, LA, March 2002).
- Hassel, Conrad V. "The Hostage Situation: Exploring the Motivation and the Cause" (September, 1975) *The Police Chief* at 55, supra note 1 at 10.
- "Hostage Negotiation Study Guide", online: Learning For Life <<http://www.learning-for-life.org>>.
- "In the Spotlight: Tupac Amaru Revolutionary Movement", online: Center for Defense Information <<http://www.cdi.org>>.
- Macko, Steve, "Japan's Lack of Crisis Management Expertise", online: Emergency Response Research Institute <<http://www.emergency.com/peruhos7.htm>>.
- Macko, Steve, "Peru Hostage Crisis Comes to a Violent End", online: Emergency Response and Research Institute <<http://www.emergency.com/peruhos7.htm>>.
- "Munich massacre", online: Wikipedia <http://en.wikipedia.org/wiki/Munich_massacre>.

- Noesner, GaryW. & Webster, Mike. "Crisis Intervention" (1997) 66 FBI Law Enforcement Bulletin 13.
- Needham, James. *Neutralization of Prison Hostage Situations* (Huntsville, Texas: Institute of Contemporary Corrections and the Behavioral Sciences, 1977).
- Pirie, Andrew J. *Alternate Dispute Resolution: Skills, Science, and the Law* (Toronto: Irwin Law, 2000).
- Reiss, Albert. "Chairman's Report on Session III", in Ronald D. Crelisten & Danielle Laberge-Altmejd, eds., *Hostage-Taking: Problems of Prevention and Control* (Montreal: International Centre for Comparative Criminology, 1976).
- Slatkin, Arthur. "Enhancing Negotiator Training" (1996) 65 FBI Law Enforcement Bulletin 61.
- Staten, Clark, "Criticism of Peru Hostage Rescue is Simply 'Wrongheaded'", online: Emergency Response Research Institute <<http://www.emergency.com/peruhos7.htm>>.
- Thompson, Leroy. *Hostage Rescue Manual: Tactics of the Counter-terrorist Professionals* (London: Greenhill Books, 2001).
- "US puts al-Zarqawi's group on terror list", online: Cable News Network <<http://www.cnn.com>>.
- Wind, Bruce. "A Guide to Crisis Negotiations" (1995) 64 FBI Law Enforcement Bulletin 7.