

# INGO kidnap - a new challenging dynamic

## Abstract

International Non Governmental Organisations (INGOs) working in one of the world's most hostile environments. Though, their role is to bring aid to those in need, they are increasingly being a target for kidnap. Abducted from their humanitarian work, many hostages are held over varying periods of time, sometimes released through ransom payments or high-risk rescue. The provision of pre-deployment preparation, in field support and post mission debrief by INGOs has come under judicial scrutiny recently and set a precedent for litigation by humanitarian workers.

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## Abbreviations

INGO, International Non Governmental Organisation; NYPD, New York Police Department; FBI, Federal Bureau of Investigation; SOARU, Special Operations and Research Unit; NRC, Norwegian Refugee Council

## A developing trend

International Non Governmental Organisations (INGOs) intentionally distance themselves from Government policy and politics, so there is a tendency that they are not the main focus of politically motivated kidnap. However, they are increasingly being targeted by terrorists and organised crime groups in kidnap for ransom. So, they are no longer the sacrosanct commodity that helps countries to recover from conflicts and humanitarian crises. Kidnapping for ransom has developed significantly since 75 BC when Julius Caesar was kidnapped by Cilician pirates crossing the Aegean Sea. It has been used increasingly by terrorists and organised crime groups in the 21st century as an effective source of revenue to fund further illegal acts and the purchasing of weapons. Now, increasingly dynamic, sophisticated and complex nature impacting the INGO's that are ill equipped to deal with such matters, especially those motivated by missionary zeal.

## The response

In response to hostage taking, negotiation has a long history, which can be traced from the origins in 168 BC in ancient Greece where Polybius, a son of the Greek Governor, Lycortas, was kidnapped and taken to Rome as a hostage and held for 17 years before his release. More recently, the 1970's exposed the ill prepared nature of law enforcement response to incidents of terrorism and hijacking. Authors such as McMains & Mullins cite the Atticaprisonriot of 1971 and the Munich Olympic Games of 1972 as the two  $\pi$  vital  $\in$ ents, where traditional police tactics  $\leq d \rightarrow$  significant loss of life and dama $\geq$  for the authorities reputation. This in turn led to the development of the concept "...the soft negotiation approaches to conflict rather than the hard, tactical approach".<sup>1</sup> Harvey Schlossberg, a detective with a PhD in psychology, and Lieutenant Frank Bolz, then both serving members of the New York Police Department (NYPD), developed the need and

desire for a negotiation strategy for crisis and hostage incidents in the police culture in which tactical intervention was invariably considered as the first and only option. Through their concerted efforts they established the first hostage recovery programme.

Shortly thereafter, the NYPD had the opportunity to test this new approach in the Williamsburg incident of 19th January 1973 at John and Al's Sporting Goods Store in New York City. This change in strategy dealing with the four armed robbers who had taken hostages within the store, "...in which emotions were running high on both sides, the more controlled, slower and less reactive approach proved successful in the sense that no other people were killed or wounded".<sup>1</sup> This provided a testimony to the new concept, thus demonstrating the benefits of negotiation over tactical intervention where armed force is used to conclude such incidents. The Federal Bureau of Investigation (FBI), through the auspices of their Special Operations and Research Unit (SOARU) proceeded to develop the NYPD training model to become a national training programme and one which was subsequently adopted by the Metropolitan Police and, more widely, among UK police forces.<sup>2</sup> The 1980's saw the emphasis in negotiation move from only intervening in hostage incidents to become involved in emotionally disturbed individuals, trapped criminals and domestic incidents.<sup>3</sup> Research into this law enforcement tactic began to further develop. The efforts of McMains et al.,<sup>1</sup> has to be regarded as the foundation on which an informed basis for negotiating has been developed as it:

- i. Collates the experiences of a number of negotiators from across the United States, and
- ii. Establishes central themes in a clear and concise manner.

Although their work is well constructed and detailed, it lacks academic rigour, has frequent anecdotal reference to case studies, and uses scripted dialogues in training scenarios to evidence many of the points under discussion. Yet, negotiations rarely, if ever, follow a script, and this approach is, therefore, of limited value as an in depth examination.

Feldmann<sup>4</sup> admits, "relatively little scientific data exists on the characteristics of negotiator incidents".<sup>4</sup> He analysed and categorised 120 incidents involving some 144 perpetrators. It is in his examination

of a number of other areas, however, that issues began to emerge with regard to Feldmann's work. He included figures on whether or not demands were made during incidents. However it is not clear what the definition of a "demand" was. A "demand" is commonly understood in negotiating training circles to refer to a variety of circumstances including the: forceful request for commodities; the release of political prisoners; movement of police cordons and money. Consequently, his research is severely limited as a basis for achieving reliable data, particularly as this limitation was also replicated in other aspects of his research. Within the UK the field of hostage and crisis negotiation remains shrouded in secrecy and misunderstanding for two predominant reasons. First, it is partly due to its close connection at an advanced level with national counter terrorist response. Second, it pertains to the fact that negotiators closely protect their training and tactics from other police officers, the Courts and the media.<sup>5</sup>

More recently the work of Rogan et al.,<sup>6</sup> reviewed the work of both American and European Law Enforcement Agency negotiation experts. In their conclusions they recognise the need for a greater research focus on actual negotiations and an investigation of the various human interactions in dynamic, fast moving critical incidents. Additionally, they highlight the requirement for closer collaboration between practitioners and those in the academic world to provide knowledge to academics and advanced techniques to practitioners that is realistic and therefore, of applied relevance. In essence of the response to hostage taking whether domestic or international is a specialist one, where the skills of the negotiator can keep the situation calm; gain valuable intelligence; buy time; build rapport with the hostage takers and in many cases successfully secure the safe release of hostages. Negotiation tactics established in the 1970s continue to be effective globally in influencing people's behaviour during a crisis incident, but only do so by the commitment of this specialist group to continually learn through sharing experiences and tapping in to applied academic research.

## Litigation

The International Convention against the taking of hostages was adopted by the General Assembly of the United Nations on the 17th December 1979,<sup>7</sup> and clearly defined under Article 1:

Any person who seizes or detains and threatens to kill, to injure or to detain another person (hereinafter referred to as the 'hostage') in order to compel a third party, namely, a State, an international intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostages commits the offence of taking of hostages ('hostage taking') within the meaning of this Convention. Any person who:

- i. Attempts to commit an act of hostage-taking, or
- ii. Participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking.

Likewise commits an offence for the purposes of this Convention.

As we can see the 1970's decade was a time for the international community not only to respond to the rise in hostage taking, but to review the tactics of hostage/crisis negotiation, all of which were designed to reduce the likelihood of injury or death to hostages whilst gaining valuable intelligence on the hostage takers with a view to a consequent judicial process for the perpetrators. The 52 American

hostages taken hostage in Tehran, Iran in November 1979 and held until January 1981 struggled to cope with the ordeal of being taken hostage. Concern from their families and others led United States Congress to enact legislation in 1980, which was designed to make the hostages and their families eligible for the same kind of benefits that were afforded to prisoners of war and soldiers missing in action during the Vietnam conflict, including their dependents. The Hostage Relief Act of 1980,<sup>8</sup> did not provide cash payments to hostages or their families, but provided benefits in various other formats and so there became an expectation that hostages would be compensated.

The United Kingdom introduced the Corporate Manslaughter and Corporate Homicide Act in 2007,<sup>9</sup> hold organisations to account for employee's duty of care and defined the offence as: "An organisation to which this section applies is guilty of an offence if the way in which its activities they managed or organised:

- i. Caused a person's death, and
- ii. Amounted to a gross breach of a relevant duty of care owed by the organisation to the deceased."

This specific piece of legislation derived more from a Health & Safety background was implemented to ensure that employers paid due regard to the safety of their employees predominately working in environments where risk mitigation was a daily task.

More recently, we need only look at the case of the crew of the MV Maersk Alabama, which was portrayed in the Hollywood blockbuster 'Captain Philips' and based on the Somali pirate attack on the vessel and the subsequent hostage rescue of Captain Philips by the US Navy Seals. The crew, traumatised by the event, filed lawsuits in the United States arguing that, despite clear warnings, Captain Phillips and Maersk Line chose to send the crew into an area of known Somali pirate activity to save money on shipping costs. The Maersk Alabama was not armed or protected at the time of the 2009 attack and the crew also, claimed that they were unguarded and unprotected in the dangerous water, with no way to defend themselves against the heavily armed criminals that boarded the vessel. Thus began the era of piracy litigation, where former seafarer hostages, aggrieved at their employer's decision took civil action in search of damages for both the physical and mental injuries they had received during their captivity.

As predicted, litigation has now crept into the INGO & NGO world with the recent case of Steve Dennis. He was working for the INGO, Norwegian Refugee Council (NRC), when abducted during a field trip to a refugee camp at Dadaab, Kenya on Friday 29th June 2012. He and his colleagues were violently taken as hostages at gunpoint and forcefully taken into Somali. Steve was shot and his driver shot dead in the attack. On the fourth day of their captivity, all hostages were rescued in another violent gunfight. In the aftermath of the incident, NRC rightly undertook both internal and external reviews of their security processes. Unsatisfied that anyone was being held to account Steve Dennis sought damages through legal recourse causing to raise sufficient funds to fight his case. The relationship between him and his former employer, NRC had broken down resulting in a 'David and Goliath' legal battle. However, on 25th November 2015 the Oslo District Court awarded Steve Dennis compensation for financial and non-financial loss of NOK 4.4 million. The court found that NRC was grossly negligent in regards to the safeguarding of the staff during the visit of the Secretary General in Dadaab in 2012.

## Conclusion

The significant change in law enforcement tactics from immediate armed intervention to the introduction of hostage/crisis negotiation as a tactic not only reduced the risk greatly but also, saved countless lives of those involved on both sides. This change was brought about by numerous deaths and subsequent lawsuits against law enforcement agencies. We saw a similar trend in the approach to tackling piracy; improved intelligence, better security measures, best practice for shipping and collaboration among global agencies in reducing the incidence of this type of hostage taking, which has also been subject to litigation by former hostages. Now, that the INGO and its community has been subjected to similar pressures, they require a security culture that is imbedded and integrated properly within their organisations to reduce the conflict between policy and practice in their humanitarian operations to keep their staff safe.

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## Conflicts of interest

The author declares that there are no conflicts of interest.

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