The International Stance Towards Negotiating With Terrorists, Algerian Stance As A Sample

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Abstract

In any problem or political crisis, there are civilian victims, or people who represent a certain body. However, these representatives do not have any related concerned with the parties of the conflict, yet they help in one way or another in spreading and worsening this crisis and stirring up public opinion. Civilians are still greatly in jeopardy of being exploited, kidnapped, or taken as hostages, despite the agreements and international accords that prohibit the exploitation of civilians and threatening their safety in certain political issues or to settle tensions for the benefit of certain parties. Terrorist groups and crime organizations feed on insecurity and aim ceaselessly to take hostages and kidnap victims as a means to serve certain agendas or to obtain certain demands that serve the interests of terrorist organizations and the widespread the scope of their activities. Moreover, these terrorist groups and organized crime organizations demand ransom and threaten to cause more harm in areas where there is instability and conflicts. In this research paper, we will discuss the phenomenon of kidnapping hostages and the process of negotiating for their lives, we discuss the varying international positions in the matter within a psycho-political analysis framework.

Introduction

Kidnapping as taking hostages has been a growing area of concern for current political issues. It has been a focal concern, particularly after the increase of such crimes and their widespread activism, which goes beyond geographical boundaries. In efforts to combat the issue, it has been subject to analysis and study, chiefly from a behavioristic approach. These efforts aim to ensure the safety of the victims by bringing together kidnappers as well as, hopefully, presidents to negotiate and prevent military escalation. These escalations will only destabilize entire regions and impede common interests of greater values to nations. In this paper, we investigate the varying approaches that governments undertake about/ for negotiating kidnappers and delivering, or not, ransoms. We hypothesize that kidnapping and taking hostages potentially harms interests of major nations (especially in countries that have natural resources) and causes insecurity.

Studies of criminology have revealed two approaches or terrorist threats to human lives. One Step Operation is the sort of crime committed for the crime itself. Crimes such as murder, assassination, and bombing. Two Step Operation begin with a criminal act and proceed to demands, such as kidnapping, planting bombs and threaten to explode them if demands are not met. The most notorious and widespread act of the Two Step Operation is taking hostages and asking for demands. Theses acts are usually accompanied by serious threats to end the lives of the hostages if they do not deliver.

1.   Definition

The act of taking hostages has been exhausted inasmuch as defining it is concerned during the meeting where an international agreement about fighting taking hostages took place. The first article of document limited the definition as much as possible so as to leave no room for confusion: "Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person in order to compel a third party, namely, a State, an international intergovernmental organization, 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 hostage commits the offence of taking of hostages ("hostage-taking") within the meaning of this Convention." (United Nations, 2013, p 4).

The aforesaid definition contains two important elements. First, the seizure or detention of another person. Second, the threat to murder, harm, or continue to hold a victim as hostage for the purpose of compelling a third party to do or not to do something as an explicit or implicit condition to release the hostage. Moreover, the operation of hostage-taking involves three parties: **the hostage** who the **hostage-taker** seeks to arrive at a certain demand from a **third party**.

1-   Background of the International Concern for Hostage-taking:

The international convention for fighting hostage-taking took place after the increase in the phenomenon in the 1970s. In September 1976, the Federal Republic of Germany suggested holding a convention to discuss the problem of hostage-taking and issue an international list of articles during the 31st U.N General Assembly. The reason why the Federal Republic of Germany called for such a convention was due to the loss of two people where Germans were taken hostages in Sweden in 1975. During the same year, another incident took place where a tragic hostage situation in OPEC headquarters in Vienna in September 1975.In Uganda, a whole plane was high jacked in August 1976. The Federal Republic of Germany exerted pressure on the U.N and announced that hostage-taking crimes, for whatever, reason, are hideous and inhumane. It reveals an unbearable act that yields to the dark side of humans and as such does not accord with sane, rational civil and wise human nature; traits that meet global citizenship. Germany insisted that the criminal act of hostage-taking defy the values that the United Nations stand for, namely, individual's rights to live freely and securely. Values that The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) stipulate. Germany bright home the fact that hostage-taking places international relations in jeopardy.

It is hard to get reliable data on hostage-taking cases – and more broadly on terrorist acts – across different studies because they use different criteria to classify them. One study found that, out of about 8,000 terrorist events reported from 1968 to 1982, 540 (7%) were transnational hostage-taking acts that involved 3,162 hostages, and 20 per cent of those acts led to death or injury of the victims. "Hostages have been seized by 188 terrorist groups in incidents that include kidnapping, skyjacking, and barricading" since 1968.18 Another study that covered a longer period (from 1968 to 2005) showed that, among some 12,942 terrorism incidents, "there were 1,941 hostage events, consisting of 1318 kidnappings, 380 skyjackings, and 243 other hostage events (such as barricade missions and non-aerial hijackings)".19 The Global Terrorism Database, which divides hostage-taking incidents into hijacking, barricades and kidnappings, recorded 4,700 kidnappings from 1970 to 2010.

2-   Hostage-takers:

Studies conducted on hundreds of cases on hostage-takers around the world reveal that kidnappers can be classified according to their motifs. Accordingly, hostage-takers can be categorized to four categories. They can be either be a)psychopaths, b) ordinary criminals who lost control of the situation, c) prisoners with criminal records, and d) politicians who concede terrorist acts for the hope of making a change in their society through violence.

3-1- Psychopaths

Studies conducted in various research centers indicate that 52% of individuals involved in hostage-taking incidents are mentally instable. It does not follow from that a complete absence of mental faculties, but rather refers to mental or psychological disorders that have a significant impact on behavior. The cases referred to in these studies can be classified into four categories: paranoid schisophranic, Manic-Depressive Press type, inadequate personality, and anti-social personality.

3-1-1- Paranoid schisophranics.

This illness affects thinking abilities, leading the patient to become detached from reality. It leads to hallucination as well, where the patient hears or sees things that do not exist in reality. Paranoid schisophranics may also act according to the influences of these visions and voices they imagine, which are most likely to impose themselves on the patient in a form of beliefs. Worse, the patient may believe they possess special qualities and abilities beyond others or have a special mission in life, a sense of grandeur and uniqueness. Alternatively, paranoid schisophranic may believe he/he is unique because he has been oppressed or persecuted.

3-1-2- Manic-Depressive Press Type:

People of such psychological suffer from severe depression, have contempt for life and an overwhelming desire to leave this world. They suffer an existential sense of guilt because of sins they committed. Moreover, they feel it's in their shoulders that there is suffering and malevolence due to their powerful delusion. They have suicidal tendencies and hostages are more likely to end up deceased in their captivity.

3-1-3- Inadequate Personality:

Such a psychological state is believed to be a result of emotional, financial, or social pressure exerted on a person. Failure to perform or contribute to oneself or society, emotional damage from intimate relationships where the individual was betrayed or neglected are translated into a sense of inadequacy. Therefore, they may lead to take hostages as an expression of self-worth, ability to succeed and to gain attention of the media and the public. Usually, inadequate personality types possess high levels of IQ.

3-2- Ordinary Criminals:

Hostage-taking situations are usually conducted by ordinary criminals. They are the most who conduct such acts, which is very common in Eastern Europe and the United States. Ordinary criminals usually have financial aims, which is why they hold hostages in banks, for instance. They may suffer psychological problems or have criminal records, which may be the reason why they prioritize their safety.

3-3- Terrorists:

Incidents where hostages are taken by terrorists attract more attention by the media and the public as well, which, hypothetically, meet the plans of terrorists. The last seek to

terrorize their enemy and reveal his/her secrets to the media. Such incidents are the most difficult and dangerous for officers as well as negotiators. All the studies that have been conducted on taking hostages have been so for the purpose of dealing with the likes undertaken by terrorists. Terrorists are usually aware of the gravity of the situation and meticulously plan ahead for the damages that may take place at so many levels, they are prepared to suffer the consequences. In worst case scenarios, they start by killing some hostages to show their seriousness and even refuse to negotiate and move to making demands and how they are to be met. Such a situation may present an opportunity for terrorists to declare their demands to the media, which exerts pressure on authorities who have to respond to public opinion as well.

Terrorists may also demand the immediate release of imprisoned terrorists. When terrorists demand ransom, which are of great amounts, they have a plan and procedure for it. Delivering money must meet financial terrorist organizations. The last collect money from adherents to the same values, bank robbers, etc. It should be taken into consideration that hostage-taking may primarily serve as a means to obtain a ransom. The negotiations often revolve around this ransom, and refusing to pay it is often a reason for the killing of hostages.

3-   *International conventions about taking hostages*

The 1979 Convention stated clearly that hostage-taking is by all means a form of international terrorism. It determined that the states where such incidents occur ought to punish hostage-takers or surrender them upon catching them. The 1979 convention defines a hostage-taker as "any person who seizes or detains another person and threatens to kill, injure, or continue to detain that person in order to compel a third party, whether a state or an intergovernmental organization, a natural or legal 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 hostage." This convention has proven particularly useful and referential as a tool for defining and addressing terrorist acts. The definition of hostage-taking outlined in this convention can be applied to the context of terrorism and organized crime. Taking hostages is a manifestation of international terrorism and is also a form of criminal activity that may aim to achieve profit and/or impose political change.

4-1- *During Political Instability: Wars.*

The International Convention in Geneva prohibits the taking of hostages and executing them. Such acts are considered war crimes, and the perpetrators can be prosecuted before any national court under the principle of universal jurisdiction. This is possible as long as the concerned state has incorporated this obligation derived from the Geneva Conventions into its domestic laws. The Statute of the International Military Tribunal at Nuremberg, which was established after World War II, affirms that such acts are war crimes (as defined by the United Nations' International Law Commission in June 1950). This is further reinforced by the Statute of the International Criminal Court (ICC), adopted on July 17, 1998, and entered into force on July 1, 2002. The ICC Statute defines the taking of hostages in an international or internal armed conflict as a war crime subject to prosecution. Therefore, by following specific conditions governing the court's procedures, the International Criminal Court can punish hostage-takers without using human shields.

The issues enacted by The Geneva International Convention and The Statute of the International Military Tribunal at Nuremberg have become a reference point. In fact, Rule 96 in the study published by the International Committee of the Red Cross in 2005 reaffirms that

"the taking of hostages is prohibited", both in international and non-international armed conflicts.

4-2- During Stability or internal Conflicts:

The International Convention against the Taking of Hostages was adopted on December 17, 1979, by the United Nations General Assembly (Resolution 34/146). The treaty entered into force in 1983, and as of June 2015, it had been signed by 174 States parties. Article 12 of the treaty explicitly states that its provisions do not apply during times of armed conflict, where humanitarian law is applicable. The Convention defines a hostage-taker as "any person who seizes, detains, threatens to kill, injure, or continue to detain another person (hostage) in order to compel a third party, whether a state, international organization, or government, a natural or legal person, or a group of persons, legally constituted or not, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage." Any act that meets the above definition is considered hostage-taking. Moreover, the treaty holds accountable and punished not only those who, but also anyone who attempts to commit the act or participates in it as an accomplice. Countries that are members in the aforesaid conventions commit to amend their constitution and take necessary measures to enforce judicial authorities over any of the crimes mentioned in Article 1 which are committed in:

A.   Inside its geographical boundaries or on board of a ship or aircraft registered in that state.
B.   By any of its citizens or, as the state deems appropriate, by individuals who do not belong to any state and who are residing in it.
C.   For the purpose of compelling that state to do or refrain from doing an act.
D.   Against a hostage who is a national of that state, if the state deems it appropriate.

In the event of an allegation regarding the presence of the perpetrator of the crime on the territory of a treaty-signatory state, and if that state does not extradite the individual, that state is obligated, without any exceptions regardless of the nature of the crime or whether it was committed on its territory or not, to prosecute that person.

4-3- The Impact of Hostage-taking on issuing laws

The number of states attracted to the treaty reached 173 in February 2014 (signed by 39 states). Assessing the impact of the treaty is challenging. Trials and extradition proceedings under the treaty seem not to be applied by all countries who signed the treaty, despite many State Parties enacting necessary domestic implementation legislation. It is undeniable that states feel reassured by the existence of the treaty in the rare cases where it may be needed. Some states have gone beyond what the treaty requires in dealing with the specific crimes outlined in it, which regarded hostage-taking as non-political crimes to avoid tension with local constitution concerning extradition or dealing with refugees.

The most challenging aspect is determining whether the treaty has effectively deterred potential hostage-takers. Many terrorists, naturally, disregard the prohibitions set forth by international law, which hinder their ability to achieve their political objectives through violence. Additionally, there is a risk that terrorists, due to the prohibition on taking hostages, may resort to other forms of terrorism that are not yet subject to legal provisions, as long as there is no comprehensive treaty banning all forms of terrorism. However, the Hostage Convention has nonetheless had an impact on various areas of legal practices at both the

international and national levels, including international criminal law and international humanitarian law.

4-4- *Negotiating with Hostage takers.*

Returning to the debate on negotiating with terrorists and paying ransom or complying with the demands of kidnappers. Naturally, there are two main parties involved, and there are those who have refrained from providing investigative bodies such as United Nations task forces with a specific stance. Here, we will examine a party that supports negotiation and paying ransom and a party that does not support it.

To begin with, there are those who refrain from negotiation, such as Canada, on the grounds that any negotiation based on demands or ransom is financing terrorism. They are guided by the presence of terrorist groups in South America, which reportedly received over $1.5 billion between 2003 and 2006 as a result of hostage-taking. It is worth noting that the Arab League adopts this stance of not paying ransom and refraining from negotiation (although it should be noted that Qatar and Saudi Arabia have broken this decision on several occasions in Iraq and Syria).

Second, there are those who believe that there is no benefit in prohibiting negotiation with terrorists and paying ransom because if the government does not do so, hypothetically, someone from the hostage's family, group, or circle will inevitably do it. Internationally, Germany, Italy, and France have openly stated that they cannot support any decision or recommendation that criminalizes paying ransom or negotiating with terrorists.

Third, terrorists demand ransom when kidnapping and holding hostages. Opinions on this matter have varied among states, with some supporting and others opposing it for various reasons.

Criminalization of Ransoms in International conventions.

Asking ransom for hostage-taking is obviously a crime, clearly covered by the United Nations Convention against International Organized Crime. The first paragraph of Article 5 declares that the state must effectively criminalize the act of "conspiring with one or more persons to commit a serious crime for the purpose of obtaining, directly or indirectly, a financial or other material benefit." The Convention also prohibits crimes committed against persons enjoying international protection, including diplomats, and explicitly penalizes intentional killing, abduction, or any other form of assault against a person enjoying international protection or their freedom. The term "abduction" used in the Convention can be interpreted broadly to encompass certain forms of hostage-taking crimes.

Different reports indicate that hostage-taking, and the abduction of hostages by terrorists specifically, for ransom, has increased in recent years. International and regional bodies have adopted numerous agreements relating to specific aspects of terrorism, preventing it, combating it, and limiting sources of income. These agreements have included hostage-taking as one of the methods employed by terrorists. However, the only binding international treaty that directly addresses hostage-taking by terrorists is the International Convention against the Taking of Hostages. Although international agreements call for the criminalization of hostage-taking by terrorists, they do not explicitly address the issue of the illegitimacy of paying ransom and its close connection to the financing sources of terrorist groups.

The International Community effectively issued 12 legally binding instruments related to combating terrorism before the adoption of Resolution 1373 in 2001 and founding. The Counter-Terrorism Committee (currently 19 instruments). Most of the international agreements that have been concluded, focusing on specific aspects of international terrorism, aim to enhance international cooperation in preventing terrorist acts and bringing perpetrators to justice. Some of these agreements attach particular importance to cases of hostage-taking. It can be argued that paying ransom to terrorists in exchange for the release is a form of sponsoring them, which is prohibited under the International Convention for the Suppression of the Financing of Terrorism. This convention criminalizes the conduct of any person who provides or collects funds with the intent that they be used, either in whole or in part, for the commission of a terrorist act, according to international treaties. This convention is supported by UN Security Council Resolution 1904, issued in 2009, in which the Council called on states to prevent and cease the financing of terrorist activities. This includes criminalizing the deliberate provision or collection of funds, directly or indirectly, by nationals of these states, within their territories, for the purpose of being used in terrorist acts.

The Algerian Stance on Criminalizing Ransom Payment.

The Algerian government considers the continuation of ransom payments as a direct means of funding terrorism. The Algerian government believes that such funds will inevitably be used to support various terrorist activities, including the purchase of weapons and other resources. This phenomenon cannot be eliminated without addressing its source, and by criminalizing the payment of ransom, the sources of terrorism can be restricted and limited, thereby eliminating this phenomenon. Moreover, the Algerian stance goes even further by refusing to negotiate with terrorists altogether because negotiating with the mencourages other terrorist groups operating in various regions to do the same. Therefore, Algeria seeks regional and international efforts to criminalize ransom payment.

Algerian sources estimate that Al-Qaeda in the Islamic Maghreb (AQIM) obtained between 50 million and 150 million euros during the period from 2003 to 2011. The majority of these funds came from ransom payments made to release kidnapped foreigners. Among these operations, AQIM intermediaries received over 18 million euros in cash in exchange for the release of citizens from several Western countries who were held captive in eight separate abduction incidents from 2008 to April 2010. As a result, the same sources estimate that AQIM in the Islamic Maghreb is almost entirely financed by ransom funds from Western countries willing to pay up to 5 million euros to AQIM for the release of a single individual from captivity.

The African Union has established two instruments aimed at creating international cooperation in combating terrorism: the Convention on the Prevention and Combating of Terrorism in 1999 and its Supplementary Protocol in 2004. In addition, during the 33rd session held in the Libyan city of Sirte in July 2009, the African Union adopted Resolution No. 256, which strongly calls for the criminalization of ransom payments to terrorist groups in exchange for the release of hostages. In this resolution, the African Union condemns the payment of ransom to terrorists and urges the international community to consider it a crime. Based on this resolution, the member states commissioned the African Union Commission in 2010 to mobilize international support to put an end to ransom payments.

The United Nations Security Council approved Resolution No. 1904, which includes the criminalization of ransom payments to terrorist groups, following a request made by Algeria after the African Union adopted a resolution in this context. The resolution calls on

member states to refrain from sponsoring or supporting terrorist activities, expressing concern over the increasing number of kidnapping cases that lead to ransom demands or political concessions. After the resolution was approved without a vote under the title *"Measures to Eliminate International Terrorism,"* the United Nations General Assembly condemned all acts of terrorism. Inasmuch as the financial aspect is concerned, the General Assembly urged member states not to finance, encourage, or support terrorism. There is no doubt that stances such as that of the Algerian government have resulted in decrease in the number of kidnapping foreign hostages (foreigners of countries that refuse to pay ransoms) in places where terrorist groups operate, such as in Maghrib countries, and the Great Sharan Desert. The United States Treasury estimated in 2014 that Europe had paid 165 million dollars to terrorist groups between 2008 and 2013 alone.

4-   *Operations of Freeing Hostages.*

Terrorist groups in the African coastal region have resorted to the kidnapping of Western hostages and demanding ransom from their countries as a primary source of financing for purchasing weapons, recruiting additional members, and bargaining for the release of their prisoners. The kidnapping of Western hostages began in 2003, but the approach to dealing with the kidnappers has been disputed amongst African countries. Algeria insists on the necessity of not paying ransoms to kidnappers because it harms the national security of countries. Rather, Algeria prefers military solutions or secret negotiations. European countries, on the other hand, prefer paying ransoms to ensure the safety of the hostages, albeit without openly declaring it. Over the past 17 years, numerous kidnapping operations have taken place in the coastal regions, carried out mainly by the terrorist organizations Al-Qaeda and ISIS, along with their affiliated groups. Most of these incidents have ended with the release of the majority of the hostages.

Paying Ransom

The specific amount of the ransom of hostages is usually not shared with the public or even the media. However, several sources have indicated that these amounts range between two million and five million dollars per hostage, depending on the captured individual's status, nationality, duration of captivity, and the group that kidnapped them. Additionally, the value of the transaction increases if the individuals belong to nationalities of countries involved in the war against these terrorist organizations. Four French hostages were liberated on October 30, 2013, after more than three years of their abduction. On September 16, 2010, members of Al-Qaeda in the Islamic Maghreb (AQIM) kidnapped seven individuals, including five French nationals (including a woman), a Togolese, and a Malagasy, at the Arlit uranium mining site in northern Niger. The French woman was released on February 24, 2011, along with the Togolese and Malagasy individuals in "Nigerian territory". The organization demanded at least a 90 million euros ransom of for the release of the hostages. However, according to local media, France refused to pay the ransom, and the amount of the ransom given to the kidnappers for the release of the hostages was not disclosed at that time.

In addition to the last French hostage in the world, who converted to Islam and became known as "Maryam". She was held captive on December 24, 2016, by armed individuals in the city of Gao, northern Mali. A prominent Malian opposition figure "Ismail Sissi," was also released, as well as two Italian hostages, one of whom was a priest abducted in Niger.

Three European hostages and a prominent Malian opposition leader were also liberated on October 8, 2020. Their release came after paying a ransom ranging between 10

and 30 million euros, according to the confession of a member of the Nusrat al-Islam wal Muslimeen group who was released in this deal before being apprehended by Algerian security services. Among the four hostages was Sophie Pétronin, aged 75. Negotiations were seriously tough and resulted in diplomatic issues between the Algerian and French governments.

Military Intervention.

32 European tourists (16 Germans, 10 Austrians, 4 Swiss, 1 Dutch, and 1 Swedish) were abducted in February 2003. They were divided into seven separate groups in the Algerian Sahara Desert. In May 2003, the Algerian army managed to liberate 17 hostages after engaging in a fire exchange with a group of kidnappers, resulting in the death of 9 of them, according to local media. However, The German government objected to this approach as it could endanger the lives of the hostages. According to media reports, Germany paid a ransom of 5 million to release 14 hostages. The hostages were released on August 17th in Mali, but unfortunately, a German hostage died due to heatstroke before being liberated.

On January 16, 2013, a group affiliated with Al-Qaeda in the Islamic Maghreb (AQIM), called "Those Signed in Blood," led by Mokhtar Belmokhtar, launched an attack on a gas facility southeast of Algeria on the border with Libya. They held approximately 41 foreign hostages, including 13 Norwegians, 7 Americans, 5 Japanese, an Irish national, and an unspecified number of French and British individuals. The kidnappers justified this attack as a response to the French military intervention in northern Mali in the same year. Refusing to negotiate with the kidnappers or allow them to withdraw with the hostages beyond the borders, The Algerian military intervened. They managed to eliminate all 32 kidnappers and liberate the hostages. However, a British and an Algerian hostage were killed during the operation.

Seven Algerian diplomats were kidnapped in the city of Gao, Mali, by the group known as Jama'at Nasr al-Islam wal Muslimin (currently ISIS in the Greater Sahara) following the invasion of Tuareg rebels and terrorist organizations in the north of the country. Three of them were released in July 2013 before the terrorist organization killed the deputy consul in August of the same year, after Algeria refused to release one of the leaders of the organization. The consul, who suffered from diabetes and high blood pressure, passed away on an unspecified date. The remaining two diplomats were released in August 2014, but the details of their release have not been clarified to this day.

After the liberation of the last French hostage in 2020, there are reportedly at least 6 Western hostages still being held by terrorist groups in the coastal regions, according to French media. However, with the ongoing approach of paying ransoms by Europeans, it is unlikely that the series of abductions in the region will decrease.

Conclusion

Despite all the conventions established by international agreements to combat hostage-taking, it has not deterred the kidnappers (especially terrorist groups) from engaging in such acts. This is particularly true since abductions often take place in destabilized areas and involve foreigners-holding Western citizenship-whether they are civilians or diplomats, with the aim of deteriorating the diplomatic relations between, for instance, European countries and African countries.

Insistence on negotiating with terrorists and succumbing to paying exorbitant ransoms, reaching millions of dollars, in exchange for the release of hostages encourages these criminal groups to plan for more kidnapping. This strengthens and increases the criminal activities of these groups in the region because these funds go directly towards financing their activities, purchasing weapons, and expanding their scope. This negatively affects the efforts of countries like Algeria in combating terrorism and limiting the scope of terrorist activities. Algeria seeks to convince the international community to refrain from surrendering to the demands of terrorists, refuse to negotiate with them, and cease providing them with ransom money once and for all.Such actions contradict all the efforts made by countries and international organizations to combat international terrorism and condemn terrorists. Algeria's position favors military confrontation to liberate hostages in order to deter these groups and dry up their terrorist activities.

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