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## 4.9 Operating skills for antivehicle theft operations

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- ❖ The Security personnel should be trained to prevent theft of vehicles inside residential areas or parking lots or otherwise from roads inside residential or industrial areas by guarding the vehicles and ensuring their protection by controlling access into the parking area.

### Measures suggested

- ❖ The area should be fenced
- ❖ The area should be preferably illuminated at night
- ❖ The ignition keys of parked vehicles should be kept in safe custody
- ❖ Duplicate keys should be kept in a secured place
- ❖ Vehicles should be released only to authorized drivers who must identify themselves
- ❖ If vehicles are sent for maintenance, there should be a person accompanying the vehicle in order to eliminate the possibility of duplicate keys being made from the vehicle keys left behind at the garage.
- ❖ Vehicle alarm systems may be installed
- ❖ The owner of the vehicle may be advised to install an ignition and/or fuel cut-off system which prevents the thieves from starting the vehicle or travelling far as the fuel supply is disrupted
- ❖ The drivers or owners may be advised to remove the Distributor Cap or the battery of the vehicle when it is left behind for a long duration or parked overnight in order to prevent the thieves from starting the vehicle .
- ❖ The owners may be advised to install locking devices such as :
  - ⊗ Locking the steering wheel with a steel bar: or
  - ⊗ By simply locking the steering wheel with a chain attached to a bolt fixed on the floor of the driver's cabin

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## 4.10 Operating skills for facing a kidnapping or hostage situation

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- ❖ When person or persons are detained or seized with the intention to kill or injure in order to force a third party to do something for the release of the hostage such a procedure may be denned as hostage taking.
- ❖ There are many options available but the following techniques can be suggested

for the security person:

- ❖ They should not fight back particularly if the hostage seekers are armed
- ❖ They must remain calm and patient and should try to explain everything and obey the captors because survival strategy is most important.
- ❖ They must keep a low profile and kill time so that the best possible strategy can be thought. During such time, the security personnel must try to remember characteristic features of the captors so that those can be narrated later to help the police trace them later
- ❖ They must be cautious of their body language, speech and they should never do anything to agitate the captors
- ❖ The security person must not give suggestions to the captors because any wrong suggestion resulting in an untoward situation later may *hold the* person *sofely* responsible
- ❖ The security person must ask for their requirement of water, food or medicines from the captors and try to build rapport with the captors by starting topics like family and children
- ❖ The security person must speak in the local dialect so as to build a local affinity and weakness for the hostage
- ❖ The security person must remember to drink a lot of water and to eat enough food even if he/she is not hungry, if those are offered as maintaining physical strength is very important.
- ❖ The security person must try to convince the captors that they may even volunteer to help in negotiating with the authorities on behalf of the captors.
- ❖ The security person must make sure that the messages are conveyed accurately over radio or a telephone on behalf of the captors
- ❖ The security person must never beg, plead or cry.
- ❖ The security person must remember to quickly drop on the floor and to keep the hands on the floor. If they suspect that the captors might pin them down.
- ❖ The security person must respect the captors. The hostage must attempt to escape only if he/she is sure to do without danger or else if caught, the captors generally become aggressive and may resort to violence in order to teach a lesson.
- ❖ In the event of a hostage situation, the Security Leader must immediately review

the situation with the Security Management Team and decide what arrangements *should be* enhanced. A joint strategy must *be* planned on how to handle the situation.

- ❖ If required, the members of the hostage's family may have to be shifted and relocated in case they too are at risk
- ❖ As such situations are very sensitive, the security staff members must be trained to abstain from disclosing information relating to hostage taking incident to outsiders.

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## **4.11 Operating Skill for handling coal mines and other explosive devices**

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### **Introduction**

Blasting is an essential part of the mining cycle. In virtually all forms of mining, rock is broken by drilling and blasting the rock. Blasting technology is the process of fracturing material by the use of a calculated amount of explosive so that a predetermined volume of material is broken. From the earliest days of blasting with black powder, there have been steady developments in explosives, detonating and delaying techniques and in the understanding of the mechanics of rock breakage by explosives. Good blast design and execution are essential to successful mining operations. Improper or poor practices in blasting can have a severely negative impact on the economics of a mine. The use of excessive explosives at a mine site can result in damages to the rock structures and cause unwanted caving and large increases in support costs.

Blasting is used in both open pit and underground mining operations. While traditional blasting utilized black powder and dynamite, there are many different types of explosives used today. Common explosives used in industry now are ANFO (ammonium nitrate/fuel oil), slurries, and emulsions. Many factors are taken into account when determining what type of blast design or explosive will be used. Rock type, density, and strength are all important factors, as well as fracture condition of the rock, and water conditions.

Blasting is one of the more hazardous aspects of mining. As reported on the website of the National Institute for Occupational Safety and Health:

Between 1978 and 2000, 106 miners were killed and 1,050 were injured by explosives and breaking agents. In 2001, there were 7 blasting-related injuries and fatalities in the mining industry, compared to 140 in 1978. For the past two decades, most explosives-related injuries and fatalities in surface mines occurred when workers were struck by rock,

either because they were too close to the blast or rock was thrown much farther than expected. The second leading cause was blasts that shoot prematurely. In underground mines, most explosive-related fatalities were caused by miners being too close to the blast, followed by explosive fumes poisoning, misfires, and premature blasts. Misfires lead to injuries and fatalities as miners try to shoot explosives that failed to detonate in the original blast. Premature blasts occur without warning while blasters are near the explosive-loaded boreholes; the explosive may be initiated by lightning, the impact of explosives being dropped down a dry borehole, or careless handling of the initiating system (blasting caps).

### **Blasting in surface mines**

Most rocks require blasting prior to excavation in surface mines. Usually four types of explosives are used in surface mining: slurries, dry mixes, emulsions and the hybrid heavy ANFO. Selection of explosives depends on many factors, which primarily includes critical diameter, hydrostatic pressure, temperature, minimum primer weight, density weight strength, bulk strength, gap sensitivity, water resistance, loading procedures, coupling or decoupled properties, shelf life, reliability for bulk operations and overall drilling and blasting economics.

Blasting Practices in Mines, a paper by P. Sharma provide a quick overview on blast design and pattern in surface mines. Here are two pictures which I have taken from his paper:

### **Blasting in underground mines**

Most of the mining methods underground uses blasting as the primary method of rock excavation. Underground Blasting provides a good overview for a wide variety underground blast designs. A typical arrangement for blasting in VCR methods of mining is shown below:

### **Controlled blasting**

Controlled blasting is a technique of blasting for the purpose to reduce the amount of overbreak and to control the ground vibrations. Following are the different types of controlled blasting techniques:

Pre-Splitting - this is an old but highly recognized technique with the purpose to form a fracture plane beyond which the radial cracks from blasting cannot travel. Other methods include Trim (Cushion) Blasting, Smooth blasting (contour or perimeter blasting) for underground mines and muffle blasting as a solution to prevent fly-rock from damaging human habitants and structures.

### **Secondary blasting**

As stated in Webref. “Irrespective of the method of primary blasting employed, it may be necessary to reblast a proportion of the rock on the quarry floor so as to reduce it to a size suitable for handling by the excavators and crushers available. Two methods of secondary blasting of rock are available. The first, called the plaster or mudcap method, is to fire a charge of explosive placed on the rock and covered with clay, the shock of the detonating explosive breaking the block. The second technique, known as pop-shooting, is to drill a hole into the block and fire a small charge in this hole, which is usually stemmed with quarry fines.”

### **Non-explosives rock breaking**

Non-explosives are used in areas very closed to sensitive structures. These are mostly used in construction industry for breaking oversize rocks, concrete etc. Rockfrac and Dexpan produce expansion chemicals which are used to break rocks. Most of these are used in limestone and sandstone quarrying. Expansion chemicals require huge amount of drilling.

Nonex<sup>TM</sup> and Magnum Buster<sup>TM</sup> are another two types of non-explosives which uses non-detonating chemicals to break rocks.

There are also hydraulic rock splitters that can be used where blasting is not permitted, or where it is not suitable. STM Construction Equipment is one of the companies that does this type of rock breaking. Also take a look at this video.

### **Blasting Institutions**

Here are some journals and institutions that specialize in blasting:

(1) Journal of Explosives Engineering issued by the International Society of Explosive Engineers.

(2) Institute of Explosive Engineers. This site is mainly for explosives engineers in the UK, but also in other countries. They have lots of news about blasting and demolition, although a lot of it is for their members only. The institute’s membership consists of engineers, scientists, logisticians, academics and legislators in disciplines such as excavation, quarrying, construction, demolition, and tunneling.

(3) Office of Surface Mining (OSM) Appalachian Regional Office offers an excellent Blasting Download page with a comprehensive list of U.S. Rules, Regulations, Research and Resources. The site also includes many reports, such as OSM reports, State reports, and US Bureau of Mines reports, as well as training aids, presentations and movies.

## **Legal**

Before you blast you generally need a state Blaster's License. For example, California regulations state:

In order to obtain a Blaster's License, the applicant shall pass a written or an oral qualifying examination given at such times and places as determined by the Division. The examination shall include questions related to the license classification requested. Field tests may also be required as deemed necessary to determine the candidate's qualifications to perform the duties of a blaster. Every person requesting a Blaster's License shall:

(a) Be at least 21 years of age.

(b) Be able to understand and give understandable orders.

(c) Furnish satisfactory proof that he is proficient in the use and handling of explosive materials; the equipment and protective devices necessary for blasting operations; the safety precautions necessary in conducting blasting operations or furnish proof that he has had at least 3 years experience at blasting as an assistant to a person having a valid Blaster's License in various phases of the use and handling of explosives.

(d) Be of such moral character and physical condition that would not interfere with the proper performance of his duties and have the ability to direct and/or conduct blasting operations.

In Canada, each province has its own regulations regarding requirements for a blaster's permit. In each of the provinces, someone looking to obtain a permit must write a blasting exam and be knowledgeable about all health and safety requirements. In BC, the Worksafe BC site lists the certification requirements and examinations, as well as providing a link to the Ministry of Energy and Mines site that specifically deals with blasting permits for mine sites. This review does not cover each province or states license requirements but suffice to say that throughout North America, a permit is required before any blasting may done.

## **Books**

One of the best books available that covers open pit blasting principles and techniques is William Hustruid's, "*Blasting principles for Open Pit Mining*".

Then there is *The Blasting Primer* by Jim Ludwiczak. The author is a professional geologist, a certified and licensed blaster, and a blasting instructor. Visit his company's website, Blasting & Mining Consultants. Inc if you cannot get the answer from his book.

## **Some Blast Designs**

Bench blasting is a common blast technique most often used for open pit mines. By

definition, bench blasting is blasting in a vertical or sub-vertical hole or a row of holes towards a free vertical surface. More than one row of holes can be blasted in the same round. A time delay in the detonation between the rows creates new free surfaces for each row.

One type of bench blast design is short-hole blasting which is usually limited to drilling rounds of 1.2 m to 5.0m length and hole diameters of up to 43 mm. Cut and fill and room and pillar underground mining methods commonly employ short-hole blasting. Both ANFO and water gels can be used for this type of blasting. Holes are generally drilled in a square pattern.

Longhole bench blasting is similar to bench blasting in open pits, using long holes drilled downward either parallel to each other or in slight rings to cover the stope area. Initiation of the blast is with a booster down the hole.

Ring drilling and blasting is done from a series of sub level drill drifts developed in the ore body. The drill pattern is designed to cover off the extent of the ore in the stope. This type of blasting will cause the ore to swell by 30%, and this must be allowed for when blasting otherwise the blast may freeze.

Crater or VCR blasting was developed by INCO in the mid-1970's for primary stoping, pillar recovery and raising. This type of blasting is made possible by using much larger diameter holes underground. Accuracy of drilling is essential for this type of blasting.

There are many different types of blast design and this review does not attempt to cover them all. Along with the importance of selecting the proper blast design other important factors that influence blast results are:

- ❖ properties of explosives being used
- ❖ the initiation systems,
- ❖ the distribution of the explosive in the blast,
- ❖ rock structure,
- ❖ the overall geometry

### **Courses**

The EduMine course on blasting is one of the most comprehensive treatments of the theory of blasting that is currently available online. If you want to know how the gel moves into the pores spaces and then generates gas pushing the rock out of the way during the explosion, this is the course for you. This course provides “a review of blasting theory and blasting products, and emphasizes the design, assessment and optimization of blasting

practices. The course focuses on drilling and blasting as it is applied in surface mines and quarries. Design methodology for safe and efficient blasting is provided. Monitoring and assessment to improve blast performance and reduce blast vibrations are discussed and examples of optimization programs are provided to illustrate the process.

### **Suppliers**

The best pictures on the web of equipment to transport, store, and load blasting supplies is from AAMCOR LLC in Utah and they smell and sound like the rugged place it is.

In South Africa there is African Explosives Limited (AEL). They are also “well established in East, West, Central and Southern Africa, with production facilities and offices in Ghana, Mali, Nigeria, Tanzania, Ethiopia, Zambia, Zimbabwe and Botswana.” AEL provides a wide range of products ranging from explosives, and initiating systems to blasting accessories and industrial products. AEL has developed the S200Eco range of emulsion - an Ammonium Nitrate/Calcium Nitrate (AN/CN) formulation, which they state is more environmentally friendly than other products available, and will help companies reduce their carbon footprint.

The Dyno Nobel website is the world’s leading commercial explosives company with over 5,200 employees in 36 countries, research and technology facilities on four continents and sales of over US\$ 1.2 billion per year. Dyno Nobel claims to have developed every major explosives innovation starting with the Safety Fuse in 1831. Other blasting advances include the development of slurry and water based explosives, and emulsion technology.

ORICA Mining Services maintains one of the best sites about blasting I have come across. If you need to blast or are simply interested in the technology, I can do no more than urge you to go to their sites. It will reward you.

### **Consultants**

Here are a couple of the big companies that offer blasting services:

Orica Mining Services is the world’s leading supplier of commercial explosives and blasting systems. They offer a number of what they call “Blast Based Services”. The most recent and advanced services they offer are the Electronic Blasting Systems: i- kon, Uni tronic, and eDev. These systems are all about greater accuracy and flexibility, significant productivity gains, greater security and more safety features.

PMC Mining Services One of their specialities is mine shaft sinking. Here’s what they say on their website: “DMC’s expertise in mine shaft sinking is based on more than 100 years of combined manpower experience. During this time DMC has continuously worked



to develop technical improvements, the most significant of which is the patented Long Round Jumbo technology which involves a process for blasting 5 metre long shaft benches and which has materially increased the speed at which shafts can be sunk.”

Here is the rest of the InfoMine list of blasting consultants:

- ❖ Aimone-Martin Associates. LLC
- ❖ Beresford Blake Thomas
- ❖ Blast Consulting Services
- ❖ Blasting and Mining Consultants, Inc.
- ❖ Blasting Damage Specialists
- ❖ BlastQuest
- ❖ Compaia Isdamar S. A. De C. V.
- ❖ Dinacon Industria Comrcioe Servios Ltda.
- ❖ Dyno Nobel Inc.
- ❖ Eloranta & Associates. Inc.
- ❖ Erfurt Blasting Co Inc
- ❖ Findlay Blasting Inc
- ❖ Limpres Ltda
- ❖ Mattson Intertool GmbH
- ❖ R.H Borr Sprang
- ❖ Robertson Consulting (not to be confused with Robertson GeoConsultants)
- ❖ Sequncia Engenharia Proietose Meio Ambiente Ltda
- ❖ Technoblast - Sismografia e Detonaes
- ❖ Texcel
- ❖ The Saros Group
- ❖ Topex Inc.
- ❖ Western States Drilling And Blasting. Inc.

#### **Contractors**

There is sure to be somebody near you willing to be your blasting contractor. In South Africa. Rhino Blasting Contractors promises to do everything from swimming pools to mines.

In Western Canada, Westrail Construction Ltd, has been providing drill and blast services for over 30 years to some of the largest drilling and blasting projects in Canada. Some of the mines that Westrail has been employed at include Gibraltar Mines, Endako Mines, Rabbit Lake Mine, and Green Hills Operation. Westrail works closely with northern communities in training and employing local people and services whenever possible.

### **Software**

Master Blaster is an inventory and blast management software system that dramatically improves documentation accuracy, minimizes paperwork, and allows for rapid search and retrieval of inventory and blast documentation. This innovative web- based software product enables blasters, support staff, and managers to have secure access to the most up-to-date information regarding customers, inventory, billing, seismograph and other blast data from anywhere in the world via the Internet.

Your staff accesses Master Blaster via a user name and password from their laptops or from the host system (internal server). A secure login page directs blasters to the appropriate data entry forms and directs managers, executives and support staff to the appropriate content management and report areas of the Master Blaster system.

WipWare Inc, supplies WipFrag. Here is their description of it: *“Blast models, formulas, expected results, we all know that this approach to predicting blast results is useless without the tool to quantify what really matters; fragmentation. Our technologies root deep in the explosives industry, we understand the steps required to improve blast fragmentation, and the infinite number of variables which effect the results. Our technology empowers you with the tools you need to collect historical data, establish a statistical baseline and track subtle changes throughout the optimization process so you can make decisions based on fact, instead of theory.”*

Soft-Blast is a software system for blast design, analysis, and management. This software can be utilized for “surface, underground, or tunnel blasting applications, explosives supply, consultation, contracting and education”. The software is available in packages or as stand-alone modules. Some of the applications of this software include extended blast and/or timing analysis, and a program to analyse digital images acquired in the field and determine the size distribution of your fragmented rock at any stage in the comminution process.

### **Introduction**

The Government has recently made changes to the laws concerning health and safety in the mining industry. This is in response to the recommendations of the Royal Commission

on the Pike River Coal Mine Tragedy and will bring New Zealand's approach to mining health and safety into line with international best practice. The changes affect open cast and underground coal and metalliferous mines and some tunnelling operations. Quarries, clay pits, alluvial gold and ironsand operations are only covered to a limited extent. The new legal requirements have been developed with help from an expert reference group of mining, health and safety and regulatory experts from New Zealand and abroad. The Government has also worked closely with people in the industry and would like to thank MinEx, the health and safety council for the New Zealand mining industry, for its commitment to the process. This is a guide for mine operators and others interested in mining health and safety. We outline the new requirements and explain who is affected and when. We also provide more detailed information (with links to the new legislation) for the five key areas: health and safety management systems; minimum standards; safety critical roles, training and competencies; worker participation; and emergency management. The guide is not a substitute for reading the legislation itself. We recommend that operators familiarise themselves with the new mining regulations and the changes to the Health and Safety in Employment Act 1992. If you would like to talk to someone about the new regime for mining health and safety please contact WorkSafe New Zealand on 0800 030 040. You can also contact MinEx on 0800 464 396.

### **New requirements for mining health and safety**

New Zealand's new mining health and safety regime is set out in:

- ❖ **new mining regulations:** the Health and Safety in Employment (Mining Operations and Quarrying Operations) Regulations 2013 (the mining regulations)
- ❖ **revised electrical regulations:** the Electricity (Safety) Regulations 2010 as amended by the Electricity (Safety) Amendment Regulations 2013
- ❖ **the Health and Safety in Employment Act 1992:** as amended by the Health and Safety in Employment Amendment Act 2013
- ❖ **the *Health and Safety in Employment (Tunnelling Operations - Excluded Operations) Order 2013,***

- ❖ *the new Mines Rescue Act 2013*, and
- ❖ **codes of practice and guidance documents.**

The diagram in appendix one shows the different parts of the regime in a diagram. The new mining regulations replace the Health and Safety in Employment (Mining Administration) Regulations 1996 and the Health and Safety in Employment (Mining-Underground) Regulations 1999. They require mining operators to:

- ❖ put in place health and safety management systems
- ❖ appoint people to new safety critical roles
- ❖ make sure their workers meet new competency requirements
- ❖ comply with strengthened minimum standards
- ❖ meet new requirements for emergency preparedness and management, and
- ❖ meet notification and reporting requirements.

The amendments to the Electricity (Safety) Regulations 2010 complement the new mining regulations by:

- ❖ ensuring the competency of those carrying out electrical work at a mining operation
- ❖ improving design requirements, periodic assessment and verification of safety requirements of electrical equipment in mining operations, and
- ❖ regulating technical requirements for underground mining operations and prescribing equipment, testing and maintenance obligations.

The Government has also made some changes to the Health and Safety in Employment Act 1992 (the HSE Act) that affect mining. These include:

- ❖ Placing new health and safety obligations under the regulations on ‘mine operators’ and ‘mine workers’ rather than on ‘employees’ and ‘employers’. Mine operators will be responsible for the health and safety of everyone who works at the operation and is exposed to hazards, regardless of whether they are employees, contractors or labour hire workers. The definition of mine workers includes those people who work in mines and tunnelling operations.
- ❖ Increasing the opportunities for workers to participate in health and safety at mining operations. Again, the new requirements apply to mine operators and mine workers.
- ❖ Empowering mines inspectors to take preventative action by issuing prohibition

notices if they reasonably believe that to continue operations would give rise to the risk of serious harm.

- ❖ Creating a New Zealand Mining Board of Examiners (the Board of Examiners) to help the new health and safety regulator, WorkSafe New Zealand (WorkSafe), to set and assess the competencies of people working in the mining industry.

These new requirements apply in addition to the more general obligations already in the HSE Act. The Government is currently undertaking a more general review of health and safety law, in response to the recommendations of the Independent Taskforce on Workplace Health and Safety, which will also affect the mining industry. The Health and Safety at Work Bill, which will replace the HSE Act, is expected to be introduced to Parliament early next year.

### **Who is affected**

The new mining health and safety regime applies to:

- ❖ underground and surface coal mines
- ❖ underground and surface metalliferous mines (except alluvial gold and ironsand operations)
- ❖ tunnelling operations, except those that meet all the following criteria:
  - ⊗ not more than two workers ordinarily work below ground at any one time, and
  - ⊗ explosives are not used below ground at the operation, and
  - ⊗ the operation relates to a tunnel or shaft that is, or is intended to be, no more than 15 metres long, and
  - ⊗ the concentration of methane is not likely to be more than 0.25 per cent of the general body of air in the working area at the operation.

These mines and tunnelling operations are referred collectively to as ‘mining operations’ in both the regulations and the HSE Act. Some of the new requirements apply to all mining operations, while others only apply to certain types of operation. The diagram in appendix two shows which parts of the new mining regulations apply to which types of mining operations. Some requirements also apply to quarries, clay pits, alluvial gold and ironsand operations:

- ❖ the regulations set out the competency requirements for the managers of quarries and alluvial gold and ironsand operations

- ❖ people obtaining these competencies are subject to the new Board of Examiners' process, and
- ❖ quarries, clay pits and alluvial and ironsand operations must also comply with aspects of the revised electrical safety regulations.

We are currently working on specific health and safety guidelines for the quarry industry. These will be supplemented by quarry-specific regulations in the longer term.

#### **When the new laws come into force**

The new mining regulations and amended HSE Act come into force on 16 December 2013.

Mining operations that start on or after this date must comply with the new laws right away (except for the competency requirements, as explained below). Existing mining operations have a bit longer and there are other transition times as follows:

- ❖ Existing mining operations have an extra year to comply (i.e. until 31 December 2014) but can do so earlier. We expect that most operations will adopt the new regime progressively over the next 12 months.
- ❖ Existing mining operations can also apply to WorkSafe for more time to meet specific requirements (a maximum of 36 months, on top of the initial one year transition period).
- ❖ The new competency requirements will be introduced in stages (refer to safety critical roles, training and competencies for details).

For underground coal mines, there are some additional transitional provisions:

- ❖ All seals and ventilation control devices installed in existing mining operations from 16 December 2013 must comply with the new requirements from 1 January 2015. Seals installed before 16 December 2013 are exempt, subject to risk assessment and management (under the hazard management processes set out in the regulations).
- ❖ Existing underground coal mines have a further 10 years (i.e. until December 2024) to meet the new requirement for a second intake.

Unions or other groups of mine workers can appoint industry health and safety representatives, who will have functions and powers in relation to underground coal mines, from 16 December 2013.

#### **Work Safe's support for the changes**

The new mining health and safety regime will be promoted and enforced by the

Extractives Inspectorate Team of WorkSafe's High Hazards Unit.

These inspectors will make every effort to discuss the new requirements with you and provide support as you put them into practice.

WorkSafe will also work with the mining industry to update existing codes of practice and guidance documents and produce new ones, to help you better understand how to comply with the new regime.

- ❖ Guidance produced in 2013 relating to hazard management systems for mines and developing safety management systems for the extractives industry will be updated to reflect the new regime.
- ❖ Codes of practice for fire and explosion and ventilation have already been developed. Over the next couple of years, these will be joined by new codes of practice relating to:
  - ⊗ strata management
  - ⊗ emergency response
  - ⊗ spontaneous combustion
  - ⊗ inundation and inrush
  - ⊗ air quality
  - ⊗ occupational health
  - ⊗ roadways
  - ⊗ gas outbursts
  - ⊗ mechanical engineering
  - ⊗ explosives,
  - ⊗ surveying, and
  - ⊗ quarries.

A mining sector advisory group will also be established by Work Safe, to provide advice on the effectiveness of the new mining health and safety regime.

You can expect more support from the regulator than in the past. In return, the regulator will expect more from the mining industry. Operators and WorkSafe will need to work closely together to improve health and safety performance in the New Zealand mining industry.

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## 4.12 Hostage Rights: Law and Practice in Throes of Evolution

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*We should look at what people do as well as what people say, because people often grumble about changing the rules without actually doing so.<sup>1</sup>*

Hostage-taking and hostage-holding have a long and convoluted history. While no one has given extensive treatment to the historical development of hostage-taking and hostage-holding, several modern commentators have noted their antiquity. These commentators have also discussed some of the changes they have undergone.<sup>2</sup> These changes have altered both the character of the activity itself and the purposes for which hostage-taking and hostage-holding are employed. Yet some of their earlier characteristics remain in a shadowy, though influential fashion.

The use of hostages is, undeniably, a device of great practical utility. Its renaissance in the 20th century is due in no small measure to an astute appreciation of that utility. In recent times,<sup>3</sup> hostage-taking has been rediscovered and put to new and highly dramatic uses. It is the consequences of these metamorphic uses of hostage-taking that is the

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\* Mr. Cooper is president of Nuevevidas Internationa], Inc., a Texas corporation specializing in safety and survival techniques. Formerly Staff Director of the National Advisory Committee Task Force on Disorders and Terrorism of the United States Department of Justice, he was Director of the Criminal Law Education & Research Center (CLEAR), New York University, Deputy Director of that University's Center of Forensic Psychiatry, and Professor of Law of the Universidad National Mayor de San Marcos, Lima, Peru. He is a consultant on terrorism to various government agencies and the private sector. Mr. Cooper's works on the legal, psychiatric, sociological and tactical aspects of terrorism and collective violence have been widely published in the United States and elsewhere. He holds the degrees of LL.B. (London); MA (Liverpool); and ULM (Criminal Justice) (NYU).

1. D. Yankelovxch, *New Rules* 39 (1981).
2. The best of these is a note by Mattson, 54 *Nonas DAME LAW*. 131,148 (1978).
3. Hostage-taking really came to prominence as an international phenomenon in the late 1960's. A great many kidnappings of diplomats in Latin America, and a systematic interference with air transport by Arab nationalists seeking the liberation of Palestine quickly generated imitation that focussed the attention of the world community upon



primary concern of this article. This article takes a necessary look at the progress that has been made to date. The subject of hostage-taking is one that will need constant monitoring and a more penetrating view of some of its aspects than is possible here. What can be said, at this stage, is that the world is seeing an intriguing new area of international law in the making. The direction of this new area of international law is by no means clear. Nonetheless, it is interesting and exciting to be present at its birth.

Hostage-taking has become essentially a relatively new form of criminal activity, international in scope and dimensions. The use of the word “criminal” is deliberate and pointed; it is intended to reflect the changing attitudes towards hostage-taking that are crystallizing today. Formerly, the taking of hostages was almost inevitable under certain circumstances and therefore, it acquired at least quasi-recognition as an institution in the Law of Nations, and it became an accepted and disagreeable part of the Law of War.<sup>4</sup> Today, however, there is almost universal condemnation<sup>5</sup> of hostage-taking as a barbarous,

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the problem. The catalytic event that gave impetus to law enforcement responses in an organized, systematic way was the seizure by Arab nationalists, believed to have been of the Black September Group, of the Israeli athletes at the Munich Olympic Games on September 5, 1972. Seventeen persons were killed during the 23-hour drama, including five of the hostage-taken. This was truly a landmark event in this history of this subject, and has been appropriately recognized. “In front of Connollystrasse 31 there is a granite plaque, decorated with flowers, commemorating the murder of the Israeli athletes there in September 1972.” Gay, *Musings in Munich*, *Am. Scholar* 48 (Winter 1974-75). Most of the relevant literature on hostagetaking dates from the early 1970’s.

4. “The practice of taking or exchanging hostages is an ancient one and was originally ‘a means of insuring the execution of treaties, armistices, and other agreements’ or a punishment or reprisal” Mattson, *supra* note 2, at 133, citing J.W. Gamer & Georg Schwatzenber. This usage persists in our times. Following the cessation of hostilities in the Falkland Islands in 1982, a number of Argentinean servicemen continued to be held by the British to guarantee the armistice. The continued holding of Lech Walesa by the Polish authorities may properly be construed as analogous to a hostage situation designed to ensure compliance of the Solidarity Movement with the law. Presumably, in the view of those authorities, Walesa is not an “innocent” hostage.
5. The reservation expressed here must be regarded as well-founded by reference to the U.N. debates on the General Assembly Resolution 31/103 of December 15, 1976

uncivilized, criminal act.

The legal and practical solutions to the problems raised by hostage-taking are uncertain. There have been many brave words, but few really resolute actions in the world of law to match them.<sup>6</sup> If the beneficiary of this indecisiveness has been the hostage-taker, then certainly the loser has been the hostage. There has been, however, a continuing juristic movement towards the legal regulation of war as a means of protecting civilians from some of the horrors of war.<sup>7</sup> The world human rights movement is a vivid example of the recognition by advanced thinkers of the need to reduce, in legal and practical fashion, a little of man's inhumanity towards man.<sup>8</sup> Similarly, the plight of the hostage is now beginning to catch up with these better established trends; there has been a lag of many centuries between the recognition of the human rights of prisoners taken and held as trophies or items

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for Drafting of an International Convention Against the Taking of Hostages. On this, see Verwey, *The International Hostages Convention & National Liberation Movements*, 75 Am. J. Int'l. L. 69, 92 (1981). While "recognizing that the taking of hostages is an act which endangers human lives and violates human dignity," and that "international law prohibited the taking of hostages," a number of delegates Bought to introduce the concept of the "innocent" hostage, presumably by contrast with those who deserved to have their lives endangered and their dignity violated because they were "guilty." For the pertinent documentation, see *Control or Terrorism: International Documents* (Y. Alexander, M. Brownz, and A. Na- res eds. 1979).

6. The distinction is neatly pointed up by the following observation: "But the limitations of international law alone are sadly reflected in the fact that the U.N. General Assembly, at the very height of the Iranian hostage crisis, was engaged in approving a new International Convention against the Taking of Hostages, with the full participation of the delegation of Iran." Legault, *Hostage-Taking and Diplomatic Immunity*, 11 MANITOBA L. J. 359, 365 (1981).
7. The position of the prisoner of war was, at one time, at least as precarious and unregulated as that of today's hostage. "Historically, law had little influence on the treatment of prisoners of war. For centuries, prisoners not sold into slavery or held for ransom were killed." Zillman, *Political Uses of Prisoners of War*, Awz. ST. I\*J. 237, 238-9 (1975).
8. See McDougal, Lasswell & Chen, *Human Rights & World Public Order: Human Rights in Comprehensive Context*, 72 Nw. UX. REV. 227-307 (1977). See also Narnia, *Progress Report on the United Nations Attempt to Draft an International Convention Against the Taking of Hostages*, 6 OHIO N.UX. REV. 89-98 (1979).

of war and the recognition of the same rights to hostages taken in the 20th century for other reasons.<sup>9</sup>

#### 4.12.1 Terminology

Before discussing the various issues addressed in this article it is necessary to take a hard look at some of the semantic implications raised by hostage-taking. The term hostage-taking has recently acquired some concrete, legal significance. However, it is far from being a legal term of art. This has remained curiously unremarked; almost as though a definition were quite unimportant since both the conventional and legal meanings of the term are notorious and therefore require no statement. There is, however, much room for linguistic confusion here, and what progress there has been towards clarification has been made in the area of international law rather than domestic law.<sup>10</sup>

The term hostage-taking did not originate in a legal context, but was adopted somewhat uncritically from its lay usage. The elements of hostage-taking have rarely been given any critical definition and the term continues to be used indifferently to describe a number of highly disparate states of affairs.<sup>11</sup> In short, the lay meaning of hostage-taking has never

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9. It has been acutely observed: "Even in time of War, when power struggle marks its greatest intensify, it has long been a basic expectation of Man that there are limits to allowable death and suffering and that certain normative protections are peremptory." Faust, *A Survey of Possible Legal Responses to International Terrorism: Prevention, Punishment, & Cooperative Action*, 5 Ga. J. Int'l & Comp. L. 431-435 n.17 (1976).

10. The pertinent international documents are remarkably free from ambiguity when they speak of "hostages." See, e.g., U.N. Doc. A/AC 188/L3. It is dear, however, that the "act of taking hostages" is capable of embracing the crime of kidnapping. That latter term is sensibly omitted.

11. See Mickolua, *Negotiating for Hostages: A Policy Dilemma*, 19 Orbis 1309, 1310 (Winter 1976). "Kidnapping is by far the most prevalent hostage incident. . .". Clarence J. Mann points out: "By stark contrast, only 118 hostage cases were reported to the FBI during the entire first six months of 1976." For statistical purposes, these hostage incidents include not only conventional kidnappings but also cases in which, for instance, a bank teller is abducted by robbers to support their escape. *Personal & Property of Transnational Operations*, in *Legal Aspects of International Terrorism* 42 (A. Evans & J. Murphy eds. 1978).

acquired any real degree of precision and the vagaries in its application have been carried over, almost unconsciously, into legal usage.

The principal problem is in the interchangeable employment of the words hostage-taking and kidnapping.<sup>12</sup> Indeed, especially in the domestic law of the United States, the two terms are in danger of becoming dangerously and inextricably intertwined. From the point of view of criminal policy, separation is clearly desirable. There is a tendency, to treat the act of hostage-taking as a mere element of the crime of kidnapping rather than a distinct genus of offense with its own constituent, characteristic components.<sup>13</sup> This tends to broaden and diffuse the essential notion of kidnapping; a term having its own long and traceable history in our jurisprudence.<sup>14</sup> This uncritical incorporation of the term hostagetaking has not only altered the criminal concept of kidnapping, but it has also crippled attempts to erect the act of hostage-taking into an autonomous crime under U.S. law. This has occurred at a time when such a distinction is achieving a measure of recognition in international law. It may already be too late to arrest this development, but it is one that should not escape the attention of the careful commentator. For the purposes of this article, *a hostage is any victim of a hostage-taking, skyjacking, or kidnapping*. It is unimportant for the purposes of this article whether or not the hostage is technically accorded that status by reference

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12. It has been correctly pointed out that: "In the United States, several state courts require that in order for there to be a kidnapping, there must be movement of the victim that has significance independent of the original assault. A barricade and hostage incident in which the hostage is not moved an appreciable distance therefore might not qualify as a kidnapping." Kaye, *The United Nations Effort to Draft a Convention on the Taking of Hostages*, 27 Am. U.J. Rev. 433,444 (1978). See also Caplan, *Some Other Faces of Kidnapping*, 11 U. Mt>. L.F. 109,112 (1972), citing the Chessman case where the victim was dragged twenty-two feet from her car to the roadside and the kidnapping conviction was upheld.

13. See Slaughter, *Criminal Law—Kidnapping in North Carolina - A Statutory Definition for the Offense*, 12 Wake Forest L. Rev. 434, 447 (1976). Note in particular the wording of the North Carolina definition at page 437 and the intertwining of the concepts of kidnapping and hostage-taking. This definition is the product of relatively recent learning and concerns.

14. See *Gooch v. United States*, 82 F.2d 534, 637 (10th Cir. 1936), citing *State v. Harrison*, 145 N.C. 408: "The word 'kidnap' has a technical meaning. It is derived from the common law, and must be interpreted according to its technical meaning at common law."

to some country's domestic law or whether the status of the victim, and accordingly, the rights that flow from that status, may be more precisely defined. The present work is based, therefore, on a *de facto*, stylized definition of a hostage rather than its definition in either legal or common parlance. While the *de facto* definition is clearly unsatisfactory, it is probably the best definition, given the present state of the matter; refinement must be the work of others, who may have the advantage of more uniform descriptions and understanding of the nature of the problem. Presently, all that is necessary is a class of victims sharing a common plight.

Some attention to what is meant within this article by the term rights is necessary. Clearly, rights is another elastic term capable of different interpretations according to the context and sense in which it is used. Moreover, it is a word which legal scholars have given much consideration, both from the point of view of its meaning and of its application in different legal settings; like hostage-taking, rights is also a word capable of being invested with a broader lay meaning than its legal counterpart.

It is argued that under the civil law system, the meaning and extent of an individual's rights cannot be estimated from a mere reading of the law. A person's rights are shaped, extended-or contracted, and given meaning and value by those who have the authority to recognize a claim and provide its remedy.<sup>15</sup> The locus of that authority will vary from system to system and a concrete statement of an individual's rights in any particular instance will depend upon the specialized knowledge of the workings of that legal system.<sup>16</sup>

The international criminality of hostage-taking must be recognized. The failure to do so means that hostage-rights vary in substance and quantity depending upon the jurisdiction in which the drama is played out. Thus, a hostage's rights may be greater in London than in Beirut. Moreover, a hostage's rights may differ quite widely according to where he is victimised within the United States. This gives the subject its peculiar piquancy for the legal practitioner.

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15. It must be asked, realistically, what prospects of recovery there might have been if those held hostage in the U.S. Embassy in Tehran had brought suit in the Iranian courts, even if there had been no Agreement barring them from so doing. What rights might have been practically asserted in the courts of Idi Amin's Uganda by those forcibly detained at Entebbe as a result of having been skyjacked by a group of international terrorists to that country?

16. In the context of becoming a victim as a result of some unlawful interference with international aviation, these complex matters are well canvassed by Neil R. McGOchrist, *Aerial Hijacking*, 2 Lloyd Merc Comm. L.Q. 298-304 (1978).

Professor Henkin has stated, “By ‘human rights’ I mean simply those moral political claims which, by contemporary consensus, every human being has or is deemed to have upon his society and government.”<sup>17</sup> The nature of a right as a claim upon somebody is the important concept. The substance and boundaries of that claim are determined by how effectively it can be upheld by those having the powers and authority to give it form and reality.

Hostage-rights must be viewed in a similar light. The claims arising under hostage-rights are for the most part as acceptable as the claims arising under human rights. Their translation into something of real value to those in whom they are deemed to inhere is a matter of more than mere statement; it demands an exercise of power and authority.<sup>18</sup> This article will demonstrate that a hostage’s rights, in any given case, are what a hostage might realistically expect from an acknowledgement of his claims by the appropriate state organ in the particular circumstances and at a particular point in time.

The process by which a hostage’s claims may be converted into rights may be regarded as having two stages. In the first stage, the claim is formally recognized as a right by a governmental body, usually a court, to which the task is entrusted. In the second stage, practical effect is given to that recognition by an executive organ of the state so that the right is invested with substance. In any particular case, the process can be subjected to examination to determine how far, if at all, the transformation from claim to right has progressed. In some instances, claims will be in the process of transformation since they have not yet reached the status of full-fledged rights. In others, the process is clearly complete, although the machinery for enforcement of the remedy may be ineffective. The recognition of rights is important, even where they cannot be effectively upheld or are consistently abused.<sup>19</sup> Rights are a yardstick against which human conduct can be measured.

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17. Henkin, *Rights: American & Human*, 79 COL. L. REV. 405 (1979).

18. A contemporary novelist, who has written a great deal on terrorism makes the distinction well “Power implies that we can accomplish what we plan. Authority signifies only that we may order it to be accomplished.” M. West, *The Clowns on Goo* (1981). The distinction is far from academic, as witness the relative positions of a hijacked aircraft pilot and the ground authorities trying to manage the crisis.

19. A comparison may be made with the case of rape. The improvement, in recent years, of the treatment accorded the victims of rape, by those charged with administering the law in the United States is notable. There has not been a formal extension of the rights of the rape victim, so much as a growing awareness of the

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## 4.13 Relative Value of Rights

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All rights do not have the same value; some are more valuable than others, both to the system that recognizes and protects them and to the individual who is the beneficiary of that process. It follows then that rights are susceptible to the effects of competition both by reason of their rankings and priorities, and the fact that rights are deemed to attach to different subjects of the law. Accordingly, rights are sometimes in conflict and the system must then decide which right shall prevail. However, neither recognition nor protection of rights is enough. Some rights will be upheld while others will be denied when the law cannot reconcile the clash of rights in a competitive situation.

There is no world-wide unanimity on the relative importance of rights. Rights receive their rankings and are upheld according to a variety of meta-legal and extra-legal considerations that differ from system to system and age to age. Currently, it is argued that the greatest human right is the right to life.

Taking the right to life as the apex of the system, a descending order of rights can be constructed. However this construction is done, it is certain that disagreements about ranking, and listing of rights will increase and grow sharper as the descent continues; there is more competition between rights at the bottom of the list than there is at the top. Nonetheless, whatever rights we assign to hostages, by reference to any particular legal system at any point in time, must be situated within this artificial, hierarchical construct.

This structure cannot deal with rights as mere abstractions; a right that cannot be upheld in some practical fashion must be accounted as no right at all. Likewise, no account of hostage-rights can fail to take into consideration that in both the legal and the practical sense, *all hostages are equal, but some are clearly more equal than others*. The political, professional or societal status of a person largely determines the extent and practical validity of his rights as a hostage.<sup>20</sup> Similarly, a person's status largely determines why he was taken as a hostage.

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obligations owed to the victim in the matter of just, rather than sympathetic, treatment

20. This may be a distressing point for those concerned with the establishment and maintenance of Equal Rights under the Law, but it must be realistically faced. Hostage-taking is a game of power. If the hostage seized is of sufficient importance to the power structure affected by the event, greater efforts will be made by the authorities to secure his release than might be expected were the victim of slight importance. This sensible premise orients hostage-taking by political extremists,

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## 4.14 Conflict of Rights and Obligations

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Central to the subject of this article is the concept of the collision or conflict of rights. A hostage's rights, at any particular place and time, are capable of being moved up or down the scale. This is no more capricious than what might befall anyone with a claim he is seeking to assert at law. However, the drama of the hostage's plight tends to accentuate the incongruities. It is, perhaps, better to view what is being examined here in terms of legally protected interests<sup>21</sup> rather than rights; at least until the conflict is resolved. Thus rather than assert that every person has a right not to be taken hostage, it is more expedient to state that every person has an expectation or an interest in remaining free from that harm.<sup>22</sup> If that expectation is not met, certain consequences flow from it. Essentially, the concern is the effect, from the hostage's perspective, of those consequences. It must be recognized that, given the state of the world today, almost anyone might be victimized by hostage-taking. Some people will, by reason of personal and circumstantial factors, run a much higher risk than others of being taken and held hostage. Having thus recognized that one's location determines the degree of risk to which one is exposed, it is useful to define in the most general of terms, the legitimate interests, expectations, or claims of a hostage. These interests may be divided into two parts by reference to the hostage-taking event itself. In the first instance, people have an interest in not being taken or held hostage. They have a claim upon society or government that appropriate measures be taken to prevent this traumatic experience from happening to them.<sup>23</sup> In addition, assuming that prevention fails and a hostage-taking occurs, the victim has an interest, expectation or claim to recover

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prompting the seizure of prominent public figures such as Harms Martin Schleyer or Aldo Moro rather than some unknown, presumably, in theory, entitled to the same rights as a hostage. What those in authority actually *do* in these cases is much more revealing of the measure of hostage rights than what the law might say.

21. Compare Fletcher, *The Right to Life*, 13 GA. L. REV. 1371 (1979).
22. Special obligations may arise out of these expectations. The principle is most clearly spelled out in the airline cases. See *Terrorism in the Terminal: Airline Liability under Article 17 of the Warsaw Convention*, 52 N.Y.U.L.REV. 283, 305 (1977). "Hijacking and airplane sabotage are modern examples of inherent aviation risks, because aircraft operation is a 'prerequisite for these acts.' " *Id.* at 300-01.
23. Stated in such wide terms, the subject appears daunting. But any examination of hostage-rights must pose this as the first step, and then proceed to a minute and detailed exploration of the preventive measures. It is in this process that all the latent



his liberty as quickly as possible without suffering any physical, psychological, economical or other harm in the process. The potential conflict of other rights, endangered or interfered with by this disruptive event, is even more pressing and acute than in the pre-hostage-taking phase.

To state that an individual has rights necessarily involves a consideration of the obligations imposed upon others by any recognition and upholding of the rights. In other words, a right is a justified claim to stand in a certain relationship with some other person(s) such that that other has an obligation correlative to the right. The claim is that a person has an obligation to do or not do some particular thing.<sup>24</sup> Therefore, hostage-rights may be equally expressed in terms of the obligations of others towards the hostage. Indeed, given the general utility of such an approach, it is better, perhaps, to seek precision in the matter of hostage-rights through an examination of the obligations and how well or poorly they are discharged.

Different obligations are owed to the hostage by different people; just as there is a hierarchy of rights, there is also a carefully graduated scale of obligations. This is the most interesting and controversial part of the exercise. For a curious, practical incongruity begins to emerge that, in a very real sense, distorts the whole picture of hostage-rights. Whatever the theoretical state of affairs might be, the recognition of rights does not match up with the discharge of the corresponding obligations. This is not due to a mechanical malfunctioning of the system. Rather is it due to a perception of rights and obligations not as correlates, or jural opposites in the Hohfeldian sense,<sup>25</sup> but as free-floating concepts, detached, or at best, connected to something other than one another. There is a certain sophistry, if not quite patent insincerity, about all this. It is as though there were a grudging recognition of values without acceptance of the obligation to protect them appropriately.

Consideration of the extreme case serves to highlight the incongruity. It is often asserted as a matter of policy, if not of strict law, that the life of the hostage is of the highest value

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conflicts and anomalies begin to surface for what is “appropriate” means much more than merely what is practical. Law is beginning to evolve, or is being made, around this question. If the term “rights” is to have any sensible meaning in the present context, the implications of what is involved have to be squarely faced.

24 Pilon, *Ordering Rights Consistently: Or What We Do & Do Not Have Rights To*, 13 GA. L. REV. 1171,1176 (1979).

25. Hohfeld, *Some Fundamental Legal Conceptions as Applied to Legal Reasoning*, 23 YALE LJ. 16-59 (1913).

and thus, it is deserving of protection in a civilized society.<sup>26</sup> No other value is seen as superior to or commensurate with this one. Accordingly, in judging the place of the hostage's rights in any theoretical hierarchy, due weight must be placed upon the value of the hostage's life. All other values, in the construction of any system of rights and obligations ought therefore to accede to the process of giving effect to the supreme worth of the human life at stake in the hostage-taking drama. Certainly, property must be accorded a lesser value than human life; property, however valuable, can always be replaced or replenished in cash or in kind, while human life is irreplaceable.<sup>27</sup> Given this conflict of interests, it seems that there can be no doubt which ought to prevail. But the matter is far from being that simple. If it were that simple, no sum of money would be too high to ransom the life of a single hostage, however humble his station in society.<sup>28</sup> History and experience illustrate that this ideal does not fit the facts. This is easily demonstrated by pushing the matter to absurdity. What is an individual worth in monetary terms? One million, ten million, one hundred million, four hundred million?<sup>29</sup> How high need one go before the absurdity causes

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26. The *most* authoritative U.A. expression of this is to be found in Disorders & Terrorism: Report of the Task Force on Disorders & Terrorism 29 (1976). "The standards and goals offered in this report are based firmly upon the primacy of the value of human life over all other values, concrete or abstract" *Id.* at 29.

27. A poignant expression of this sentiment comes from a speech of one who is no stranger to property values, Paul Mellon. "[Someone] quotes the sculptor Giacometti as having said, 'If a house were on fire and I could take out a Leonardo or a cat, I would rescue the cat. And then I would let it go'. It is life itself that counts." B. Hersh, *The Mellon Family* 532 (1979).

28. A study of monetary settlements actually made in hostage (especially kidnapping) cases quickly establishes that while all animals are equal, some animals are more equal than others. It is evident that a bank president is worth more, in terms of a ransom, than a bank teller. For some interesting insights into the human, as well as the financial aspects of assessing the worth of a kidnap victim, see C. PEPPER, *KIDNAPPED: 17 DAYS OF TERROR* (1978).

29. This is close to the figure demanded for the release of each of the remaining 53 U.S. hostages in Iran. This event has spawned a great deal of literature deserving of the closest study by all interested in the subject of hostage rights. The legal aftermath of this event will be felt for years. It has been well said that, "[I]t appears that the real trade was foreign Iranian assets for the hostages." Janis, *The Role of the International Court in the Hostages Crisis*. 13 CONN. L. REV. 263, 276 (1981).

one to say “Stop!” Yet, it is accepted that human life is worth more than mere money. The source of the anomaly suggests itself when the enquiry whose money is made.<sup>30</sup>

### **Whose Obligation?**

Viewed in this light, the issue of hostage-rights is reduced to the question of who owes what to whom? Much of the uncertainty over the character and extent of hostage-rights is due to the lack of precise definition of the different obligations. Presently, we must stick to generalities, but the scheme for examination can be set out with some exactitude. Obligations towards the hostage, as well as those owed to potential hostages are owed in a *private* or an *official* capacity. Generally, a hostage’s rights consist of certain claims against society, or against a government.

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30. It is not always a matter of money at stake, even where non-governmental entities are concerned. An American bible translator, Chester Bitterman was kidnapped by M-19 terrorists in Bogota, Colombia on January 19,1981 in an attempt to force the U.S.-baaed Summer Institute of Linguistics to leave the country. Bitterman, aged 28, was killed by his captors 48 days after bis abduction when the missionary group refused to meet the demand. *See* The Dallas Morning News, March 8,1981, at 16A.

### **Vehicle seizure**

- ❖ Aircraft hijacking
- ❖ Carjacking, a robbery in which the item stolen is a motor vehicle
- ❖ Maritime hijacking, or piracy
- ❖ Truck hijacking

### **In computing and telecommunications**

- ❖ Hijack attack, in communication, a form of active wiretapping in which the attacker seizes control of a previously established communication association
- ❖ Bluejacking, the unsolicited transmission of data via Bluetooth
- ❖ Brandjacking
- ❖ Browser hijacking
- ❖ Clickjacking (including likejacking and cursorjacking)
- ❖ DNS hijacking
- ❖ Domain hijacking
- ❖ Homepage hijacking
- ❖ IP hijacking
- ❖ Page hijacking
- ❖ Reverse domain hijacking
- ❖ Session hijacking In entertainment
- ❖ A Hijacking, a 2012 Danish film
- ❖ Hijacking, in dance, a variation of lead and follow Other uses
- ❖ Credit card hijacking

### **Indian Airlines Flight 814**

Indian Airlines Flight 814 commonly known as IC 814 was an Indian Airlines Airbus A300 en route from Tribhuvan International Airport in Kathmandu, Nepal to Indira Gandhi International Airport in Delhi, India on Friday, 24 December 1999, when it was hijacked. Harkat-ul-Mujahideen was accused of the hijacking.

The aircraft was hijacked by gunmen shortly after it entered Indian airspace at about 17:30 IST. Hijackers ordered the aircraft to be flown to several locations. After touching down in Amritsar, Lahore and Dubai, the hijackers finally forced the aircraft to land in Kandahar, Afghanistan, which at the time was controlled by the Taliban. The hijackers

released 27 of 176 passengers in Dubai but fatally stabbed one and wounded several others.

At that time most of Afghanistan, including Kandahar where the plane landed, was under Taliban control, who resisted allowing the plane to land there. After eventually granting the plane landing rights, the Taliban still pressured the hijackers to release the hostages and give up on some of their demands.<sup>111</sup> Taliban fighters surrounded the aircraft to prevent any Indian military intervention.

The motive for the hijacking appears to have been to secure the release of Islamist figures held in prison in India. The hostage crisis lasted for seven days and ended after India agreed to release three militants - Mushtaq Ahmed Zargar, Ahmed Omar Saeed Sheikh and Maulana Masood Azhar. These militants have since been implicated in other terrorist actions, such as the kidnap and murder of Daniel Pearl and Mumbai terror attacks.

### **Hijacking**

Anil Sharma, the chief flight attendant on IC-814, later recalled that a masked, bespectacled man threatened to blow up the plane with a bomb and ordered Captain Devi Sharan to “fly west”.<sup>111</sup> Four other men wearing red masks then stood up and took positions throughout the aircraft. The hijackers wanted Captain Sharan to divert the aircraft over Lucknow and head towards Lahore. However, there was insufficient fuel. Captain Sharan told the hijackers that they had to land in Amritsar, India.<sup>121</sup>

### **Landing in Amritsar, India.**

At Amritsar, Captain Sharan requested refuelling for the aircraft. However, the Crisis Management Group in Delhi directed Amritsar Airport authorities to ensure that the plane was immobilised. The armed personnel of the Punjab police were already in position to try and do this. They did not receive approval from New Delhi. Eventually, a fuel tanker was dispatched and instructed to block the approach of the aircraft. As the tanker sped towards the aircraft, air traffic control radioed the pilot to slow down, and the tanker immediately came to a stop. This sudden stop aroused the hijackers’ suspicion and they forced the aircraft to take off immediately, without clearance from air traffic control. The aircraft missed the tanker by only a few feet.

### **Landing in Lahore, Pakistan**

Due to extremely low fuel level, the aircraft requested an emergency landing in Lahore, Pakistan. Pakistan initially denied the request. Pakistan also shut down their air traffic services, thus effectively blackening the whole of Pakistan airspace for the Indian Airlines flight and switched off all lights at Lahore Airport. With no help from ATC, Captain Sharan

banked on his visual instincts and began descending on what he thought was a runway only to find out that it was a well-lit road and aborted landing the aircraft in time. On understanding that the only other option for the aircraft was to crash land, Lahore Airport switched on its lights and allowed the aircraft to land. Lahore 'airport officials refuelled the aircraft and allowed it to leave Lahore at 22:32 IST. Pakistani officials rejected the pilot's request to offload some women and children passengers due to tense relations with India.

### **Landing in Dubai, UAE**

The aircraft took off for Dubai where 27 passengers aboard the flight were released. The hijackers also released a critically injured 25-year-old male, Rupan Katyal, who was stabbed by the hijackers multiple times. Rupan had died before the aircraft landed in Al Minhad Air Base, in Dubai. Indian authorities wanted to carry out a commando hijack specialist operation in Dubai involving Indian military officials, which was rejected by the UAE government. Landing in Kandahar, Afghanistan

After the aircraft landed in Kandahar. Taliban authorities, in an attempt to gain international recognition, agreed to cooperate with Indian authorities and took the role of mediators between the hijackers and the Indian government. Since India did not recognise the Taliban regime, it dispatched an official from its High Commission in Islamabad to Kandahar. India's lack of previous contact with the Taliban regime complicated the negotiating process. However, the intention of the Taliban was under doubt after its armed fighters surrounded the aircraft. The Taliban maintained that the forces were deployed in an attempt to dissuade the hijackers from killing or injuring the hostages but some analysts believe it was done to prevent an Indian military operation against the hijackers. Negotiations

- ❖ Maulana Masood Azhar - founded Jaish-e-Muhammed in 2000 which gained notoriety for its alleged role in the 2001 Indian Parliament attack.<sup>11211121</sup>
- ❖ Ahmed Omar Saeed Sheikh - arrested in 2002 by Pakistani authorities for the abduction and murder of Daniel Pearl.<sup>1™</sup>
- ❖ Mushtaq Ahmed Zargar - has played an active role since release in training Islamic militants in POK.

Ahmed Omar Saeed Sheikh, who had been imprisoned in connection with the 1994 Kidnappings of Western tourists in India, went on to murder Daniel Pearl and also allegedly played a significant role in planning the September 11 attacks in the United States.<sup>1181</sup>

After the three militants landed in Kandahar, the hostages aboard the flight were freed. On 31 December 1999, the freed hostages of the Indian Airlines Flight 814 were flown

back through special plane.

Meanwhile, the Taliban had given the hijackers ten hours to leave Afghanistan. The five hijackers departed with a Taliban hostage to ensure their safe passage and were reported to have left Afghanistan.

### **Aftermath**

The case was investigated by Central Bureau of Investigation (CBI) which charged 10 people out of which seven including the five hijackers were still absconding and are in Pakistan. On 5 Feb 2008, a special anti hijacking Patiala House Court sentenced all three convicts namely Abdul Latif, Yusuf Nepali and Dilip Kumar Bhujel to life imprisonment. They were charged for helping the hijackers in procuring fake passports and to take weapons on board. However, CBI moved Punjab and Haryana High Court demanding death penalty (instead of life imprisonment) to Abdul Latif. The case is set to come up for regular hearing in high court in September 2012. On 13 September 2012, the Jammu and Kashmir Police arrested terror suspect Mehrajuddin Dand, who allegedly provided logistical support for the hijacking of IC-814 in 1999. He allegedly provided travel papers to IC-814 hijackers.

Captain Devi Sharan (Commander of IC814) recounted the events in a book titled 'Flight into Fear - A Captain's Story' (2000). The book was written in collaboration with journalist Srinjoy Chowdhury.

Flight Engineer Anil K. Jaggia also wrote a book specifically depicting the events unfolded during the hijacking ordeal. His book is titled 'IC 814 Hijacked!'. The book was written in collaboration with Saurabh Shukla.

The CBI's application to convert the life imprisonment of Abdul Latif to a death sentence has been rejected. Also, Abdul Latif's application to decrease his sentence from life imprisonment has been rejected.

### **Anti-hijack system**

An anti-hijack system is an electronic system fitted to motor vehicles to deter criminals from hijacking them. Although these types of systems are becoming more common on newer cars, they have not caused a decrease in insurance premiums as they are not as widely known about as other more common anti-theft systems such as alarms or steering locks. It can also be a part of an alarm or immobiliser system. An approved anti-hijacking system will achieve a safe, quick shutdown of the vehicle it is attached to.

## **Technology**

There are three basic principles on which the systems work.

### **Lockout**

A lockout system is armed when the driver turns the ignition key to the *on* position and carries out a specified action, usually flicking a hidden switch or depressing the brake pedal twice. It is activated when the vehicle drops below a certain speed or becomes stationary, and will cause all of the vehicles doors to automatically lock, to prevent against thieves stealing the vehicle when it is stopped, for example at a traffic light or pedestrian crossing.

### **Transponder**

A transponder system is a system which is always armed until a device, usually a small RFID transponder, enters the vehicle's transmitter radius. Since the device is carried by the driver, usually in their wallet or pocket, if the driver leaves the immediate vicinity of the vehicle, so will the transponder, causing the system to assume the vehicle has been hijacked and disable it.

As the transponder itself is concealed, the thief would not be aware that such a system is active on a vehicle until they had ejected the driver and moved the vehicle out of range of the driver (usually only a couple of meters). This is probably the most common anti-hijack system, and a central locking system that uses the same concept was demonstrated by Jeremy Clarkson on an old episode of the BBC Top Gear program where he teased a butler by asking him to put his bags in a Mercedes-Benz S600 but didn't give him the RFID transponder. The butler was confused when the S600 doors wouldn't open when he tried, but when Jeremy approached with the transponder in his pocket, the system acknowledged this and unlocked the car, allowing Jeremy to simply pull the door handle to gain entry to the vehicle.

### **Microswitch**

A microswitch system is always armed and is usually activated if one of the vehicle doors is opened and closed again while the vehicle's engine is running. Once the system has been activated, the driver will have a set time limit to disarm it by entering a code before the vehicle takes measures.

If the system is not disarmed in the time window, it will warn the driver by sounding the vehicle's horn once every 10 seconds for 30 seconds, at which point the system will start sounding the horn at much shorter intervals and will usually activate the vehicle's hazard lights.