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HOSTAGESHIP: WHAT CAN WE LEARN FROM MAUSS?

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Abstract

Hostages have become an important political and security issue in the context of conflicts in the Middle East and in Africa. The work of Marcel Mauss helps us to shed a new light on this phenomenon, which today is portrayed in negative terms as a major violation of fundamental universal rights such as the right to liberty. In *The Gift*, however, Mauss refers to the granting of hostages as "acts of generosity." In line with Mauss' approach, I consider hostageship as a "total social phenomenon," combining politics, law, and economics, in both domestic and global settings, which reveals structural political and social questions that need to be addressed. The article highlights the role that hostages fulfilled as "gifts" in premodern international relations when hostages were granted and not taken as they are today. I underline the role they notably performed as elements of proto-diplomacy. I show the reasons why the function of hostages has changed over time by underlining the importance of the later Middle Ages as a transitional moment. Finally, I discuss the issue of contemporary hostageship from a normative perspective, arguing along with Mauss, against an interest-based utilitarian vision of hostageship and in favor of a solidarist approach to hostage crises.

Introduction

Hostage taking has today become common practice in the context of conflicts in the Middle East and in Africa. Over the last years, a significant number of citizens from both Western and non-Western states have been abducted by groups such as al-Qaeda, Islamic State in Iraq and Syria (ISIS), or Boko Haram. Hostage taking has become one of the tools transnational violent organizations use when they want to display their power of nuisance in international politics (Colonomos, 2016). It has also become a global market where human lives are traded at a price that varies according to their status and nationality (Carbonnier, 2015: 108–112). We now tend to think about hostage taking as an unlawful act that violent non-state actors or those who are said to be terrorists perform in order to coerce and blackmail states or those people and groups (companies, families) who usually belong to states that abide by the law and where individuals have rights. Hostage taking is largely considered a violation of universal rights such as the right to liberty (Colonomos, 2017; Weill,

2014). It is a violation of human rights and international humanitarian law.[1] Apart from that, it is a violation of customary international law (Dinstein, 2004), as well as a major violation of the laws of war according to contemporary just war theory (Meisels, 2017: 200–216). Hostage taking is the object of a specific treaty.[2] It is also a violation of domestic law in many countries. It is a pain inflicted in order to punish someone for the crimes attributed to other people. This makes it legally and ethically difficult, if not impossible to justify.

But is this the only way to understand the social, political, and moral meaning of hostage taking? To what extent can the work of Marcel Mauss help us to shed a new light on this phenomenon? In order to address this question and therefore to better understand the meaning of hostage taking as a social phenomenon, it is important to put hostageship, that is, the condition of being held as a surety for a pledge, into a historical and cultural perspective, and, indeed, Mauss encourages us to pursue this intellectual endeavor. In his major work *The Gift*, Mauss refers to the role hostages played in medieval political culture. Especially in the Germanic tradition of the Middle Ages, Mauss (2002 [1925]) writes, hostages were considered "gifts":

Clans within tribes, great extended families within the clans, tribes between themselves, chiefs and even kings, were not confined morally and economically to the closed circles of their own groups; and links, alliances and mutual assistance came into being by means of the pledge, the hostage and the feast or other acts of generosity. (p. 78)

In what follows, I argue that this historical perspective helps us better understand the practice of contemporary hostage taking. It also informs us about what could be the most appropriate contemporary responses to this practice. This is consistent with the approach of Mauss, who uses examples from what he calls "archaic societies" in order to better understand and judge the politics and the social values of our own time. Mauss' approach grounded in the social sciences has a normative dimension, as Mauss criticizes the move away from the "gift" tradition. In this article, I also use social sciences as well as a brief summary of the history of hostageship and its perception in order to make a normative claim. I argue not only for a banning of hostageship in international relations but also for an obligation to try to achieve compromises with hostage takers in order to set free the hostages. I use Mauss in order to analyze a norm of international politics both from an empirical and a normative perspective.

Also, very much in line with Mauss' approach, I consider hostageship as a "total social phenomenon" which raises structural political and social questions that need to be addressed. Hostageship is a total social phenomenon where "everything intermingles," as Mauss (2002 [1925]) writes referring to "the religious, the juridical and moral which relate to both politics and the family" (p. 3). It also combines the micro-dimension of social relations with the macro-dimension of international and global politics. Hostage taking is a micro-practice (individuals who are at the core of the familial ties are one essential part of the practice of hostage taking) and takes place in a macro setting (the relations between two social and political units) where religious and legal norms play a very important role.[3] Moreover, hostageship is a security problem with a strong moral dimension both at the individual and at the collective level.

In order to discuss these problems properly, we need to first define the term "hostageship." It is important to explain and understand the different modes of relation between the groups that host the hostages and the groups to whom these hostages originally belong. Historically and culturally, we see two facets of hostageship. In some cases, usually in traditional and ancient societies, hostages are *given* (therefore the term hostage taking

would be inappropriate), while in others, more particularly in the contemporary context, hostages are *taken*. Moreover, in the former case, the practice of hostageship is rather oriented toward peace, while in the latter, hostage taking is a means through which conflicts between states and non-state actors perpetuate themselves.

This has at least three important implications that are paramount in the context of international relations, defined as relations between different political units, be they state or non-state actors: (a) what used to be a gift becomes a theft, (b) what used to be an act of diplomacy has become a war crime and a crime tout court, and (c) what was based on shared communal values in settling for peace relies upon calculus of interests in war making. In the first part of the article, I give examples that validate Mauss' comment on hostages as "gifts" and show that the gift relates to a practice that can be analyzed from the perspective of international relations as a discipline. I show that hostages serve as proto-diplomacy in a premodern international system. From this perspective, Greek and Roman times as well as the Middle Ages can tell us something about the nature of international politics as such (Bozeman, 1960). Hostage taking is both a private and a public matter, as it is based on the family ties between the hostages and those leaders who are involved in conflicts and who might decide to pursue peace. In the second part, I will discuss the criminalization of giving and taking hostages which began during the late Middle Ages. Modern international politics are set in a more collectivist framework, according to which states pursue collective interests. It does not come as a surprise that the granting of hostages who were essentially the sons of kings and rulers subsided and hostage taking was outlawed. Finally, in the third part, I address some of the contemporary dilemmas regarding hostages from a Maussian perspective, outlining a solidarist and cosmopolitan framework of dealing with hostage crises. Interestingly, we witness a tension between two approaches toward hostage taking. On one hand, from an individualist perspective, hostages are considered individuals who suffer from great injustice. Therefore, they deserve to be freed and every means, including the payment of ransoms, should be made in order to achieve this goal. On the other hand, from a collectivist approach, some argue that states should pursue their interests even if that puts the lives of hostages in danger. Therefore, no compromise should be made with their abductors. In opposition to these two alternatives, and in a Maussian spirit of solidarism, I argue in favor of a collectivist approach according to which states not only have the duty to free the hostages, even if that implies to make compromises with their abductors, but also to share information and to cooperate with other states in order to solve hostage crises and punish hostage takers.

Hostages as gifts and proto-diplomacy

As Mauss points out, in the Germanic tradition, hostages were considered gifts granted by one group to another. Historically, this appears to be a pattern in premodern societies. Indeed, both in Athens and in Rome, hostages were sometimes considered gifts (Allen, 2010; Walker, 2005). Instead of being prisoners captured in the context of a military intervention or incursion, they were sometimes given freely to another party. In some cases, prisoners would become hostages, but this was not the only possibility. If they were given away, they were seen as "gifts."

In general, people may be motivated by different purposes when they give gifts. Prominent cases, which are discussed extensively by Mauss (2002 [1925]) as general models of gift giving, are the "potlatch" and the "kula." Mauss does not discuss specific cases of hostages

as potlatch or kula. But we find numerous historical examples in antiquity when hostages were granted by one party to the other, yet advancing the cause of peace. The gesture of granting hostages was based on the perception of common interests: the quest for peaceful relations between the two groups. As in the potlatch and kula, these transactions were a functional form of social regulation.

However, this is not the most interesting and important dimension of hostageship in ancient times. Some hostages were given as gifts to demonstrate the allegiance to a new ruler or to a new hegemonic power. Indeed, in Roman times, hostages did, as gifts, symbolize the submission to the Empire and were a happier alternative to the possibility of plundering or mass murder (Allen, 2010: 70). Hostages could also be the cement of new alliances, as in the case of the Italic tribe of the Lucanians who, after having distanced themselves from Rome, asked for its assistance in their war against the Sunnites. In order to demonstrate and reinforce their loyalty to Rome, Lucanians offered hostages to the Romans (Allen, 2010: 71). In the Middle Ages, we also find several cases where hostages married the heirs of the kings to whom they were given (Kosto, 2012: 84).

These practices stand in radical contrast to hostage taking in contemporary politics; they were part of a multi-layered and metro-centered imperial project. Empires tried to exert strong control over the periphery, and the quest of political capital such as prestige and glory were the main drivers of their expansion (Doyle, 1986). Hostages were elements in this game. In the case of Rome, hostages were received by the center from groups on the periphery of the empire. In this sense, hostages were an ingredient of this empire's hegemonic policy. When its hegemonic power began to wane, Rome started to send hostages, notably to Persia (Kosto, 2012: 3).

As it was legitimate to keep hostages on one's soil and as this norm was set up by the leading power, it was a form of "soft power" (Nye, 1990) exercised by the hegemon which used hostages to foster its diplomatic interests. Indeed, as in contemporary uses of soft power, culture played an essential role. As a soft power mode of policy-making, hostage taking was also brought as evidence of the benevolent role of the hegemon that allowed it to use other means than kinetic war to influence other parties and pursue its interests. We can consider this behavior as part of the "unarmed" dimension of international conflicts played out as "soft wars" (Gross and Meisels, 2017).

So, hostages were gifts and, in a certain sense, Roman culture was also seen as a gift received by hostages when they were in Rome. Receiving a Roman education implied some kind of consent on their part. We may wonder how this consent and this new allegiance to the dominant culture were forged, as some scholars would even go as far as to refer to them as victims of a "Stockholm syndrome" (Allen, 2010: 4). Consent was the outcome of a form of structural power upon which empires relied (Strange, 1987). Sons of foreign dignitaries were raised in Rome and taught Roman values, which they sometimes propagated in their native countries when they returned to their homeland. It must be noted that hostageship was also interpreted as an act of submission that had also a sexual dimension: those who sent hostages were in a passive position vis-à-vis those who received them, that is, they were offered to their protector who stood in an active position, disposed of the body of the hostage and could also act as a provider.

Offering hostages as gifts was also seen as an act of conciliation (Allen, 2010: 71). To make sense of this aspect, it is worth drawing on the literature on the role of signals in international relations (Jervis, 1970). Hostages were signals sent to the hegemon in a situation of confrontation between two political units who were willing to seek peace or a

new rapprochement. This happened frequently in a context of asymmetrical power relations, for example, in the Roman Empire. Hostages were strong signals and the main reason for their strength was their multi-dimensional character. By sending hostages to another country or giving them to a foreign ruler, a political leader asked his citizens to submit to another ruler. This is analogous to the rhetorical figure of a synecdoche: the part of the community that was given represented the submission of the whole community to the hegemon. Sending hostages was also a very personal gesture, as hostages were usually sons of princes. Their identity was constitutive of another mode of signaling. As these were considered both emotionally and politically, the most valuable of all citizens of a state or a tribe, they were, as such, the signal of the willingness to make allegiance to the new leading power or at least to make a gesture of good will vis-à-vis the dominant power.

When hostages were given as a gesture of good will signaling the willingness to make peace, they would serve as pledges. Sons of foreign rulers, unlike female putative hostages, would have an influence in their society of origin.[4] These boys would be treated well and receive a Greek or a Roman education. Once they would return to their original country, they could serve as "proxenoi" or unofficial ambassadors. An example is Demetrius of Macedon, the son of Philip V of Macedon, who was sent to Rome. By the end of his stay, he declared that he considered Roman senators his fathers and their sons his brothers (Walker, 2005: 4).

Hostages would also serve as trust enablers.[5] As pledges, they would signal the intentions of their group of origin to the group to which they were sent. The more important the hostage was, the more seriously the signal was taken. Hostages were central for the building of trust between two polities in a context where premodern codes of honor prevailed. There were also cases in which rulers refused the gift of hostages as pledges. In the late tenth century, for example, William, the duke of Normandy, turned down an offer from the German king (Kosto, 2012: 207). This was considered to be a form of honorable behavior. As we see from this example, very consistent with Mauss' anthropological analysis of gift making and gift exchanges, hostages were ingredients of rituals whose meaning and significance was determined by preexisting codes, grounded in an ethics of virtue in Athens and in Rome, and in the ethos of chivalry during the Middle Ages. The granting of hostages was an individual practice rooted in the communal values of these and other premodern societies.

Furthermore, hostages could serve as warrants. This would imply that, formally, the lives of hostages were at risk. However, in Greek and Roman times, as well as during the Middle Ages, cases of hostage killing were rare. In 1152, the Anglo-Norman nobleman John Marshal gave his son William Marshall, who later became a famous knight, to King Stephen of England in order to establish a truce. When Stephen besieged John's castle, he used the young William as a hostage to ensure that John kept his promise to surrender the castle. John, however, had taken advantage of the truce to reinforce the castle and mobilize additional forces. Sending his son as hostage was a bluff. And yet, Stephen did not kill the boy and even released him. This example, one among others, shows that sending and receiving hostages was essentially a mode of communication based on trust and good will and aimed at reinforcing ties of cooperation between polities. By preserving the hostage's life, the relationship of trust was maintained. The killing of hostages would have diminished the willingness to send hostages in the future, which in turn would have damaged the "international" relations of the time.

The criminalization of hostage taking

As we have seen, hostages used to be elements of informal practices that originally belonged to a tradition oriented toward peacemaking in the context of hegemonic structural power in premodern international systems. They were means to achieve peace, allowing rulers who were confronted with a hegemonic power to show their allegiance and build trust. Yet, within the same historical period, different meanings of hostageship and different functions of hostages overlapped. The question of hostages was rarely codified in the writings of those authors who, during ancient times in Athens and in Rome as well as in the Middle Ages, wrote historical accounts of warfare. Thucydides (1998) refers in passing to hostages taken by Athens in the war against Sparta; these hostages were essentially captives and were not meant to serve as trust enablers (Paganopoulos, 1978). In Rome, Cicero wrote about war and the principles that should govern the use of force. We find several passages on the laws of war and the treatment of pirates in *De Officiis* (Cicero, 1913). However, these two works are by no means systematic accounts of laws of war, and the topic of hostageship remains very much uncovered.

Conditional hostages in international treaties are an interesting example that testifies to the transition from archaic societies relying upon an ethos of honor or chivalry to the rational world of legal arrangements, that is, to those norms that regulate the interests of states instead of reflecting the honor codes of their rulers. The first international treaties dealing with hostages date back to the twelfth century, when hostages played the role of warrants in peace agreements. For example, hostages were obliged to pay fines if the relevant party failed to honor their obligations laid down in agreements (Kosto, 2012: 148, 151–152). Hostages were vectors of relations between two groups. Therefore, the main question addressed by authors writing about hostageship was who was giving hostages to whom, and why. In the sixteenth century, Pierino Belli in his *De Re Militari et Bello Tractatus* writes that hostages could be granted by kings or popes for public reasons, whereas private persons were not allowed to grant hostages and certainly not for money (Belli, 1936). In other words, hostages were public gifts made by public persons invested with the authoritative power to grant them for the sake of the public good. In this context, kings had the right to decide over the lives and the liberty of their sons. This reflects the prevailing patriarchal values of the time. As soon as the question of rights and freedoms came up, those values were questioned. Pierino Belli marked the transition from a premodern patriarchal order to a rights-based political order. Grotius considers jeopardizing the lives of civilians a crime of war. For Kant, it is inadmissible to use people's lives as mere means to an end.

Thus, the development of laws of war and ethical universalism constituted an important turning point in the history of hostageship. We see a radical move from hostageship as a status based on an ethos of chivalry toward a new normative regime which is institutionalized, codified, and impersonal, standing in opposition to the former communal values that guided the behavior of rulers and kings. This new dynamic relies upon a specific goal, the pursuit of state interest in the context in international politics. In particular, those philosophers, theologians, and lawyers such as Vitoria, Gentili, or Grotius who wrote about just and unjust wars explicitly addressed the question of hostages. The seventeenth century was a radical turning point in the history of international politics. It was a moment of great turmoil that reshaped the politics of the European continent. Wars of religion transformed the European system of governance, and as the Holy Roman Empire lost power, a new system of interstate politics emerged and developed, culminating in the Treaty of

Westphalia in 1648 (Philpott, 1999). During the seventeenth century, authors writing in the just war tradition developed a body of laws of war aimed at regulating the behavior of combatants in interstate wars. This process gave birth to an international society of states regulated by a minimal understanding of international norms.[6] These norms were meant to regulate the relations between states as peers, even though occasionally, for example in Grotius' *De Jure Praedae*, the behavior of states vis-à-vis private persons such as pirates was also addressed (Grotius, 2006 [1603]).

When writing about hostages, the main concern was to conceptually distinguish hostages from prisoners of war and slaves. One of the main goals of the just war tradition was to attribute rights to combatants and civilians. Quite simply, the idea was that civilians have the right to immunity in warfare. Nobody must kill them intentionally. Combatants have rights, notably if they are captured. They ought to be spared and have the right to a fair and humane treatment. Also, they should be released at the end of the war.

Hostages appear to have had diverging rights. This was especially the case when hostages were considered to be innocent, as opposed to when they were considered to be guilty (Kosto, 2012: 216–219). As for the latter, Gentili and Grotius argue that they can be slain, whereas, the killing of the former was found to be impermissible and the protection of their lives was an obligation on the part of those warriors who prided themselves to fight a just war.[7] As to the division between combatants and civilians, innocence was a major discriminating variable. Civilians had protective immunity, because they were innocents, that is, "non-nocentes," meaning literally that they could not do harm. Guilty hostages were those who had committed wrongdoings before they were captured or because they had attempted to flee. The distinction between innocence and guilt is important as it appears retrospectively to be the starting point in the history of the criminalization of hostage taking. Indeed, if it is a violation of the laws of war to kill innocent hostages, then the taking of hostages is at least associated with a crime since it implies the possibility of innocents' death. As for those hostages who are considered guilty, the laws of war stipulated that they should be considered criminals and held in custody because of their crimes.

Hostages were also a problem in the just war tradition because Gentili and Grotius were concerned that hostages could be sold as slaves by their captors. The granting of hostages was no longer part of the personal relations between rulers of legitimate political bodies. Hostage taking was seen as a peril because illegitimate actors outside the realm of European international society of states—pirates and Muslims, in particular—could engage in this activity. Pirates were likely to sell hostages as slaves, if conditions for their surrender were not met. Gentili and Grotius also mention those warriors who did not share the values and principles of Christian nations and therefore could not be trusted. Both thought that "Mahometans" (i.e. Muslims) were a threat to individual rights and that Muslims, like pirates (who were both seen as "nomads"), were likely to sell hostages as slaves (Grotius, 2005 [1625]).[8]Gentili (1933 [1598]) believed that Muslims could never be trusted and that therefore establishing a true peace with them was out of reach.[9]

To conclude, the emergence of the Westphalian system is a major transition in the history of hostageship and stands in stark contrast to what Mauss describes in his account of the Germanic tradition. In contrast with the Middle Ages and its ethos of chivalry, authors from the just war tradition have introduced a new set of impersonal rules. The purpose of the just war tradition has been and still is to rationalize the conduct of warfare. Hostages as gifts did not fit into this model. This ancient practice relied on communal values shared by rulers (lords, kings, and emperors) on the basis of pre-established relations of trust, whereas the

rationalist account of the just war was based on a process of *sociation* in the Weberian sense (Weber, 2013), which aims at furthering the interests of states or state-like units on the basis of reciprocity and without causing unnecessary suffering of innocents. The new order established a culture of mutual mistrust and tended therefore to establish formal rules of interaction meant to regulate the behavior of politically established collective bodies instead of relying on codes of honor or an ethos of chivalry.

A Maussian approach to contemporary hostage dilemmas

Mauss was certainly right in his very brief account of hostageship in premodern societies. He was also right in his more general analysis of the transition from gift giving as a tradition to a new utilitarian morality based on "constant, icy calculation" (Mauss, 2002 [1925]: 98). However, it can be shown that in the case of hostages, a cold and impersonal utilitarian approach can be challenged, with Mauss in mind, by an alternative approach which relies on non-utilitarian values.

Today, hostages no longer play a role as intermediaries in international negotiations, and hostage taking has been outlawed. This has to do with the juridification of international relations and, more specifically, with the bureaucratization of diplomacy. Given how diplomacy works today, it would, indeed, be very odd to think of hostages as vectors of peace.[10] On the contrary, hostage situations are a source of embarrassment for diplomats in countries such as France that covertly pay hostage takers to free citizens while publicly claiming not to negotiate with them. Serious diplomatic tensions can also arise, as in the recent case of a German journalist held in Turkey, when prisoners are called "hostages" by the government of the home country of the captive (Oltermann, 2017). Generally speaking, states do not take hostages and would certainly not admit to calling their foreign prisoners hostages.

There are a few exceptions, though. After having invaded Kuwait, Saddam Hussein held journalists as hostages and used them as human shields in order to prevent the United Nations (UN) coalition to bomb his palaces (Burns, 1990). Earlier on, in 1979, a major crisis erupted between the United States and Iran, when US diplomats were held as hostages at the American embassy in Tehran. Finally, while Israelis have been repeatedly taken as hostages by Palestinians or countries such as Syria, Israel has kidnapped two guerilla leaders twice, in 1989 and 1994, in its efforts to retrieve its missing airman Captain Ron Arad (Hundley, 1994). Potentially, these hostages would have served as tokens in a negotiation that could have led to the liberation of Arad.[11] Eventually, they were set free in 2004 in an exchange in order to set free Elchazar Tenenbaum. Ron Arad is still missing.

Ransom as a moral issue

Nowadays hostage takers are typically non-state actors that try to exert political pressure on states. Often the blackmailing of states is a source of financial resources (Callimachi, 2014). In some cases, abductors, such as pirates in Somalia (Marchal, 2011), may also directly deal with companies whose employees have been captured. Ransoming or the release of captives after obtaining a ransom has developed as a common mode of relation between abductors and those third parties that want to see hostages return to their homes. Insurance companies often serve as intermediaries in this commerce, and it is a very common practice for abductors to ask for 2 million dollars for the release of a hostage.[12] By offering to pay

large amounts of money in return for payment of substantial insurance fees, insurance companies have facilitated ransoming (Carbonnier, 2015: 115).

Ransoms are, of course, a source of embarrassment. Indeed, both paying ransoms and releasing captives for money affect the moral conscience of those who pay ransoms and the general public, because these interactions appear to equate human lives with money or other precious objects. However, in some cultures, we find an obligation to pay a ransom when a member of the community is taken hostage. Such is the case in Judaism, where the Talmud (*Bava Batra*, 8b) explicitly mentions that the community ought to pay ransoms. In accordance with these solidarist community values, Maimonides also wrote letters exhorting his fellow Jews to collect money in order to redeem captives.[13]

There are two reasons why ransoms are looked upon with great suspicion. The rationalist reason is that ransoms constitute a source of revenue for abductors who would use them to pursue their illegitimate goals. This interest-based reasoning is most commonly used in the United Kingdom or the United States—states that tend to refuse to negotiate and pay for the release of their nationals. It is a way of thinking that economists have framed in terms of rational choice theory (Brandt and Sandler, 2009; Lapan and Sandler, 1988). There is also a more cultural reason for the refusal to pay ransoms, in particular, when military personnel are being held captive. In this case, it not only appears to be illegitimate to value life in monetary terms, but ransoms also go against an honor code of soldiering according to which soldiers ought to sacrifice themselves for the sake of their community.[14] Their stoic ethos (Sherman, 2007) should be an impediment to the paying of ransom for their release. In Japan, it is common for released hostages or family members of the hostages to offer their apologies to the state for the embarrassment they caused (Fackler, 2015).

Ransoms are often expressed in monetary terms. Unlike gift exchanges, they are based on blackmail, so that we may call them forced gifts. Of course, ransoms can also be paid using other resources such as labor. Mauss addresses this issue in one of his writings where he discusses the case of hostage camps in Congo (cf the contribution by Mallard, 2018).

Solidarism versus realism

How can the problem of hostage taking in international society be solved? Following Mauss and his approach to politics, I argue in favor a solidarist solution which is opposed to the utilitarian argument. Of course, hostages can no longer be counted as “gifts” granted by one political leader to the other. But this does not mean that the only alternative is a narrowly utilitarian approach. The Maussian alternative would be a collectivist approach. Hostage taking requires a collectivist approach in a double perspective. It is a problem of state sovereignty which at the same time should be addressed at the interstate and multilateral level. Before presenting this alternative, I briefly sketch the characteristics of the prevailing model and illustrate some of its aporias.

According to the realist view that still prevails in many countries, states ought to be self-interested during hostage crises, which means they ought not to pay ransoms to hostage takers because this would increase the power of their enemies. This cost–benefit calculation is opposed to a more liberal and individualistic approach, based on human rights and on compassion. I argue that there is a need to move beyond this opposition.

The question of whether it is a moral imperative to negotiate with hostage takers is constantly being debated. Former US President Barack Obama annulled a law that banned families from communicating with hostage takers and paying ransoms. In June 2015, he

announced that families who decided to pay ransom will not face criminal prosecution (*The White House*, 2015). This new policy also implied that the United States may communicate with hostage takers and that it will stand closer to the hostages' families (Carroll, 2015). Here as elsewhere we see a tension between, on one hand, realist and impersonal approaches to the mortal dangers posed by hostage takers and, on the other hand, individualist moral concerns that focus on the life of the hostage as well as on solidarist values that require to rescue a member of the community when he or she falls into the hands of a hostile group.

This is exemplified by the controversy over the "Hannibal" doctrine in Israel which allows the Israel Defense Forces (IDF) to foil attempts at kidnapping soldiers by any means, even if this puts captured soldiers at risk (Colonomos, 2014). Israel has been confronted with hostage crises created both by Palestinian groups such as the Hamas and by the Hezbollah in Lebanon who used this tactic to pressure Israel into making concessions and releasing prisoners belonging to their groups. There are different reasons that explain why, in the last two decades, Israel has negotiated with groups it considers terrorists. The first reason is religious and also lies in community and nationalist values. As already mentioned, Judaism encourages Jews to pay ransoms when members of their community are being held hostage. Furthermore, military service is mandatory and a great feeling of solidarity with soldiers prevails in Israeli society. Moreover, the IDF ethical code emphasizes the supreme moral value of Israeli soldiers which implies that everything ought to be done to bring back a soldier if he or she is taken hostage. For these reasons, when a soldier is being taken hostage, civil society groups, and of course the family of the abducted soldier, exert strong pressure on the state, often in conjunction with a call to make concessions to the Palestinians. One example for this is the case of the solider Gilad Shalit captured by Hamas in 2011. This soldier was freed by his abductors in exchange for the release of 1027 Palestinians.

This was a notable exception to the Hannibal doctrine, which was established in 1986. A much-discussed Hannibal situation emerged during the 2014 Gaza intervention. When it became known that a soldier, Lt Hadar Goldin, was taken by Hamas, the army decided to use massive fire against the abductors although it was aware that this procedure would put the life of the hostage at risk. Of course, the drafters of the Hannibal doctrine were always hoping for the freeing of the hostage as a consequence of the use of massive force. However, the doctrine suggests that the worst thing that can happen is the abduction itself. Therefore, intervening at the risk of causing the death of a captured soldier becomes acceptable and, overall, preferable to his or her abduction. There was no debate during the intervention when the news about the implementation of the Hannibal doctrine and the death of Lt Goldin transpired. However, in 2016, the Hannibal doctrine was abandoned.

More generally, the uncompromising approach toward hostage takers is criticized for its utilitarian assumptions. When states refuse to compromise their national interest and the common good by negotiating with hostage takers, they balance different kinds of goods against each other: the lives of the hostages, on one hand, and the national interest or the common good, on the other. Utilitarianism is confronted with a challenge of making an impossible calculation. Utilitarianism has no answer as to how to make such a calculation, because the relevant goods are not commensurable.[15] It is interesting to see how Mauss avoids this problem. Gifts traded do not necessarily have to be of equivalent value. Moreover, lack of commensurability cannot be a problem in an exchange of gifts, since they are supposed to bring pleasures that are not necessarily of the same nature. In hostage

negotiation, non-commensurability necessarily prevails. Persons and material goods are not commensurable. We may also argue that people are not commensurable either. Indeed, how is it objectively possible to measure the worthiness of a life in comparison to other persons' lives? Hostage negotiations are usually the exact opposite of potlatch as every party tries to maximize the utility of the exchange and to gain what it sees as the greatest counter-gift. In the case of the Israeli soldier Gilad Shalit, the Israeli government and Hamas negotiated for years over how many and which Palestinian prisoners were to be set free. Israeli leaders were assessing the price of Palestinian hostages on the basis of the threat that these prisoners, once set free, would pose to Israel's security. On the other hand, it was very important for Hamas to obtain the release of some of its leaders who would be welcomed as heroes.

According to the realist tradition and in the context of realpolitik, states want to pursue what they identify as their national interest. Therefore, utilitarianism, or consequentialism, is a mode of state practice. In the context of hostage taking, economists argue that, at the individual level, hostage takers are encouraged to pursue their activity if they know that they can earn revenue from blackmailing hostages' families or home countries. Politically, those who oppose compromising with hostage takers would argue that paying ransoms for the release of hostages hurts the national interests of states and the "international community," because it often finances terrorism.[16]

In many respects, however, this reasoning lacks robustness. It does not produce sufficient evidence of the fact that not paying ransoms to hostage takers will be a disincentive for hostage takers. Indeed, in cases where the other party does not comply with their demand, groups such as ISIS would behead the hostage. This constitutes a reward for the group because the images of the beheadings can be used as propaganda tools.

Moreover, the utilitarian model relies on a sovereignist approach. A nation-state is responsible for its national interest and therefore is supposed to fully control the negotiations with terrorists. This reasoning is problematic since it does not take into account two aspects. First, the sovereignist approach ignores the question of future discounting. Are future hypothetical lives to count as much as present ones (the hostages' lives)? What is the value of the national interest (a future-oriented concept) in comparison to present lives? Second, the sovereignist utilitarian model implies that if states pay for the release of their hostages, their national interest will be hurt in the future. However, it is impossible to know whose lives will be threatened in the future if hostage takers are encouraged to pursue their activities. Hostage taking often is a global activity and therefore nationals from other states than those that have made initial payments could be hurt. To the extent that hostage taking is a global phenomenon, it should be addressed in a transnational manner. In response to the logical failure of the nationalist and interest-based approach, a different approach is much needed.

In line with Mauss' solidarist vision of international politics, I suggest a solidarist or cosmopolitan framework (Colonomos, 2017).

This solution requires that we redefine the political status of hostageship in such a way that moral duties on the part of those states that want to fight hostage taking can be formulated. Hostage taking is a global activity that is carried out, in many instances, by transnational groups that affect a great number of states. It is therefore the responsibility of states that share common values such as human dignity to cooperate and see what they can contribute to pursue their common interest at the multilateral level. Given that both the morality and the efficiency of a policy that refuses to make any compromise with hostage takers are

highly doubtful—American and British citizens are still taken as hostages regardless of the uncompromising stance of their governments—and that the practice of hostage taking is a severe violation of the basic universal rights, states ought to find compromises in order to set free individuals in the event of their capture as hostages. These two reasons combined should be sufficient to compel states to find a common solution, whose goal would be to free hostages as well as to severely punish those who want to benefit from their commerce. Such a solution would privilege international cooperation, most likely through ad hoc international coalitions and the sharing of know-how and information. In this case, the intelligence of the many is likely to be more efficient than the intelligence of the few. International cooperation would foster the emergence of an epistemic community of specialists on hostage crises who would share their experiences from different perspectives to improve future decision-making. Eventually, states could also share some resources to fund both the payment of some ransoms when deemed acceptable and the work of security agencies that will chase hostage takers.

Conclusion: Moralizing hostageship

To what extent does Mauss help us to better understand the issue of hostage taking? And how does his thinking help us to formulate adequate responses to hostage crises? Mauss' thinking is important to understand both empirically and normatively hostage taking as a contemporary phenomenon. Indeed, while addressing the issue of hostages offered as gifts, Mauss shows that hostage taking is a contextual phenomenon which encourages us to think about what are appropriate responses to hostage crises that are well suited for the specific conditions of the world we live in. Mauss' insistence on the limits of utilitarianism is also important. Despite the attention given to utilitarianism in the debate on hostages, there is a need to address its major flaws. The utilitarian argument based on the efficiency of the refusal to negotiate with hostage takers is not sufficiently well grounded in facts and therefore should be used with more caution.

We therefore need to find more effective and morally sound solutions. I have emphasized the fallacies of the utilitarian argument and have argued in favor of a solidarist and cosmopolitan approach that resonates with Mauss' thinking. Such an approach would be consistent with the larger dynamics of post–Cold War international politics (Colonomos, 2008). Indeed, after the fall of the Berlin Wall, liberal democratic states have come under increasing pressure to revise their domestic and international policies in light of moral claims. States have been criticized for their past wrongdoings which led to a wave of demands for reparations of historical injustice (Torpey, 2003). Western states have been and still are "called to account" (Colonomos, 2008). Also, they are criticized for the death of civilians in warfare which has led, among other things, to the development of more precise weapons to spare the "innocents" (Crawford, 2014; Thomas, 2001).

The stubborn refusal to compromise on what is seen as the interest of the state is increasingly challenged by other rationales, such as the preservation of individual rights. As we have seen, moral claims are also addressed to states in hostage crises. If states fail to be more explicit and transparent, their legitimacy is at risk. Strong demands to protect citizens that are held hostage emerge from the democratic public as the example of Gilat Shalit in Israel demonstrates. This leads to the creation and the reinforcement of moral expectations of those who are in favor of doing whatever it takes to free hostages. These voices need at least to be heard. Human rights are part of the "moralization" of international politics and

need to be included in the response to hostage taking crises. We must be critical vis-à-vis the false evidences of what Mauss calls "icy utilitarianism." Like other problems related to the environment, reparations of historical injustices or the use of military force, the abduction of hostages by transnational violent actors is also a global problem that requires a solidarist and coordinated approach.

Footnotes

1. It is a violation of customary international humanitarian law (IHL). See chapter 32, rule 96, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule96

2.
See the International Convention against the Taking of Hostages (3 June 1983), article 1. 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 … to do or to abstain from doing, any act as an explicit or implicit condition for the release of the hostage commits the offense of taking hostages ("hostage taking") within the meaning of this convention.

3. The number of political units involved can also be superior to two when we find proxies during the exchange.

4. There are much less cases of female hostages. There was a fear that female hostages could have been abused sexually. In the Middle Ages, there was also a fear that Muslims would have sexual intercourse with female hostages and, as a consequence, the use of female hostages was banned in Spain (Allen, 2010: 84).

5. We also find references to hostages as trust enablers in rational choice theory (Raub, 2004).

6. This is the perspective by the English school of international relations (IR) and notably Hedley Bull inspired by Grotius (Bull, 1977). I subscribe to this view (Bull et al., 1992).

7. See Grotius (1933 [1598]) the right refernce is Grotius(2005 [1625]), Book III, Chapter IV, "19 That this Extends to Hostages"; Chapter IX, Chapter 11, "18 That Hostages Must not be Put to Death unless Personally Faulty."

8. See Grotius (1933 [1598]), Book III, Chapter IX, XVIII, and XIX.

9. See Gentili (1933 [1598]: 395–403), Book III, Chapter XIX, "Whether it is Right to Make a Treaty with Men of Different Religion."

10. However, in some exceptional cases, hostages can still be used as gifts. Although Snowden has not been captured by Russia, to some extent, he could be considered a hostage in this country. Recently, Putin has declared that he could be returned as a gift to the United States if he were to be expelled from Russia (McFadden and Arkin, 2017).

11. In exchange for the bodies of three Israeli soldiers who had been missing since October 2000 and Tenenbaum, Israel released more than 430 Arab prisoners on 29 January 2004.

12. Interview with a hostage negotiator, Paris, November 2014.

13. However, even for Jewish law, there are limits as the Mishna (Gittin 4:6) says "captives should not be ransomed for more than their value, for the sake of the general welfare."

14. The "commodification of life" is an ongoing debate in the field of ethics, as many argue that human lives cannot be priced in monetary terms, despite what, for public policy reasons, governments, and insurance companies do, for example, in the field of risk prevention, medicine, or transportation. On the commodification of life, among others, see Ogien (2010) and Sandel (2012).

15. There is an ample literature on commensurability in philosophy (Chang, 1998). In this case, there is no common value between the two categories of good. Furthermore, national interest and common good are also very difficult to define and states hardly do so, which increases the problem of non-commensurability even further. See also Rawls' critique of consequentialism that raises the problem of commensurability. Indeed, Rawls rules out "justifying institutions on the grounds that the hardship of some is offset by a greater good in the aggregate" (Rawls, 1999: 13).

16. This was the claim made by the United Kingdom at the Group of Eight (G8) meeting in 2013. Eventually, a resolution was passed which stated that G8 leaders "unequivocally reject the payment of ransoms to terrorists and call on countries and companies around the world to follow [their] lead and to stamp this out as well as other lucrative sources of income for terrorists." Paying ransoms is illegal in the United Kingdom. The United Kingdom also wanted to pass a resolution at the United Nations (UN) according to which paying ransoms would amount to funding terrorist organizations. As such, paying ransoms would have been considered a crime. The resolution did not pass in its original form. Instead, a soft version was passed in 2014 that "calls upon all Member States to prevent terrorists from benefiting directly or indirectly from ransom payments or from political concessions and to secure the safe release of hostages" (UN Security Council Resolution 2133).

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