On Redeeming Captives

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The brutality and sadism of the October 7 attacks, frustration with the continuing violence, and dread over what the future might have in store are leaving so many of us sleepless at night. On top of all of these, however, is the hostage crisis. Over 200 Israeli and foreign citizens—men, women, and children, Jews, Muslims, and Christians—were taken captive by Hamas, including some whom we know were wounded during the initial attacks. We know very little about their fate and future as I write this. It is heartbreaking imagining their last weeks, their physical and emotional suffering, their confusion, and their distress. Imagining the agony of their families, waiting to hear what their future holds, is equally painful.

Looking at Jewish writings about hostages anew in this moment sets two priorities above all others. The first is that caring for our hostages needs to be a central organizing goal for the Jewish community at large, high on the agenda of our communal conversation and in our advocacy, as indicated by rabbinic sensitivity to the pain of being held hostage. The second is that the release of Palestinian prisoners in exchange for hostages is justified according to rabbinic sources, which approve of redeeming our hostages through payment, what they call *pidyon shvuyim.*We can understand such an exchange as a manifestation of our care for our hostages.

In Bava Batra 8a, one of the central Talmudic sources that articulates the importance of ransoming hostages, we learn that the pain suffered by hostages is the main reason for our need to focus on their release:

> Rava said to Rabba bar Mari: Concerning this matter that the Sages stated, that redeeming captives is a great mitzvah, from where is it derived? Rabba bar Mari said to him: As it is

> written: "And it shall come to pass when they say to you: To where shall we depart? Then you shall tell them: So says the Lord: Such as are for death, to death; and such as are for the sword, to the sword; and such as are for famine, to famine; and such as are for captivity, to captivity" [Jer. 15:2]. And Rabbi Yohanan says: Whichever punishment is written later in this verse is more severe than the one before it.
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> Rabbi Yoḥanan explains: The sword is worse than death. If you wish, say that this is learned from a verse; if you wish, say instead that it is derived from logical reasoning. [To] say that this is derived by way of logical reasoning, [say]: This punishment, i.e., death by sword, mutilates the body, but that punishment, i.e., natural death, does not mutilate it. And if you wish [to] say that the fact that the sword is worse than death is learned from a verse: "Precious in the sight of the Lord is the death of His pious ones" [Ps. 116:15].
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> Famine is worse than the sword. If you wish, say that this is derived by logical reasoning: This one who dies of famine suffers greatly before departing from this world, but that one who dies by the sword does not suffer. If you wish, say instead that the fact that famine is worse than the sword is learned from a verse: "More fortunate were the victims of the sword than the victims of famine" [Lam. 4:9]. And captivity is worse than all of them, as it includes all of them, i.e., famine, the sword, and death.

Our sages compare the fate of a hostage to death, murder, and famine, writing that it is worse than each of them *and* like all of them combined. The context of the verses they cite from Jeremiah is a particularly dark prophecy of God's punishing of the Jewish people, describing the destruction of Jerusalem, and, in particular, the pain of mothers, in great detail:

> "I will make their widows more numerous than the sand of the sea. At midday, I will bring a destroyer against the mothers of their young men; suddenly, I will bring down on them anguish and terror. The mother of seven will grow faint and breathe her last. Her sun will set while it is still day; she will be disgraced and humiliated. I will put the survivors to the sword before their enemies," declares the Lord. (Jer. 15:8-9)

Jeremiah's prophecy expresses extreme pain and suffering, and our sages view captivity through this lens. In a recent article in *Commentary*, several Jewish studies scholars note that Jewish (as well as Muslim and Christian) ethical traditions around hostage release differ from Roman tradition:

> In stark contrast to the Roman conception, whereby the captive automatically lost his status as a free citizen when taken into custody beyond the limits of the State, Judaism developed collective responsibility for captives, which has survived the captivity of Jewish communities themselves.
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> Further, the evolution of practices of redeeming captives in the first millennium of the

> Common Era attests to the emergence of shared self-definitions among all three Abrahamic religions: Judaism, Christianity, and Islam. In all three, a community of believers was conceived as a unified religious society, one which was to satisfy its members' need for strong mutual bonds. When we examine how captives were redeemed, we discover a deep connection between the faith of individual believers and their religious social order as a whole. The individual captive remains a part of the body politic of believers, even when his or her own body has been temporarily severed from them. The act of their redemption bears witness to the individual's fundamental identity with the group and, at the same time, testifies to the group's identity in opposition to its enemies.[1]

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The fact that captives suffer does not ensure that their societies will do everything possible to release them. The article I just cited describes the different ways various societies historically regarded their obligations toward captives, indicating that prioritizing captive release is a communal ethical choice. In the *Mishneh Torah* (Laws and Gifts for the Poor 8:10), Maimonides writes:

> The redemption of captives held for ransom takes precedence over sustaining and clothing the poor. You do not find a mitzvah greater than the redemption of captives, for captivity is in the same category as famine, drought, or exposure, and one stands in danger to one's life. Someone who shies away from redeeming him violates the following Torah prohibitions: (1) Do not harden your heart from helping the poor [Deut. 15:7]; (2) Do not close your hand [ibid.]; (3) Do not stand by when someone's life is in danger [Lev. 19:16]; (4) Do not subjugate him with hard work [Lev. 25:53].He also violates the positive mitzvot of: (1) You shall surely open your hand to him [Deut. 15:8]; (2) Allow your brother to live with you [Lev. 25:36]; (3) Love your fellowman as yourself [Lev. 19:18].

In explaining ransom, Maimonides focuses on aspects of communal responsibility. By understanding this mitzvah relative to the laws of charity and by citing many examples of violations and positive commandments, he indicates that redeeming captives is a matter of Jewish

communal responsibility. Concern for the captive becomes a quintessential expression of care for the other within our community. This is amplified further by Beit Yosef in the *Shulchan Arukh*: "Every moment that one unnecessarily delays the ransoming of a captive, it is as if he were to shed blood." (Yoreh Deah, 252:2)

Rabbi Yosef Karo creates a link here both to the communal understanding articulated by Maimonides and to the Talmud's connection between captivity and death, viewing the failure to ransom a captive as equivalent to murder, no less.

Beyond being a "great mitzvah," we must understand redeeming captives as an organizing principle of articulating the boundaries of our community. Captives, even when taken from within our community and dragged beyond our borders, are still part of our people. They become signifiers of communal responsibility, of what the idea of peoplehood means in practice.

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In discussions of the cost of hostage release in our time, we often hear of the need to balance between the values of solidarity and security. Here, "solidarity" refers to caring for those who are held in captivity, while "security" expresses the fear that exchanging hostages for prisoners will ultimately endanger the entire community. In this articulation, the "great mitzvah" of hostage release is perhaps lesser than a greater mitzvah, namely, the community's security.

The claim that these values stand in conflict emerges from a Mishnah in tractate Gittin: "The captives are not redeemed for more than their worth, for the sake of the betterment of the world [*tikkun olam*]; and one may not aid the captives to escape, for the sake of the betterment of the world." (4:6)

This passage includes two ambiguous terms, which have given rise to many rabbinic discussions from Talmudic times until now. The first is the word "worth," *yoter al kedei dameihem*, and the second is the phrase "betterment of the world," *tikkun olam*.

In commenting about the "worth" of the captive, the medieval Tosafot write, "When there is fear of loss of life, we ransom them for more than they are worth" (bGittin 58), making a captive's worth an issue of context. If the individual held in captivity is not in a life-threatening situation, the price we are willing to pay for them might be lower than if there are imminent threats to their life. That said, other Rishonim (in some interpretations), such as Nachmanides, challenged the Tosafot's position. He argued that since every situation of captivity entails some measure of threat to life, it is illogical to read the Mishnah as focused only on non-life-threatening situations.

Debate about the phrase *tikkun olam*, betterment of the world, begins in the Talmud:

> A dilemma was raised before the Sages: Concerning this expression, for the betterment of

> the world, is it due to the financial pressure of the community? Is the concern that the price increase will lead to the community assuming financial pressures it cannot manage? Or perhaps it is because the result of this will be that they will not seize and bring additional captives, as they will see that it is not worthwhile for them to take Jews captive? (bGittin 45a)

The Talmud gives no answer, leaving the phrase ambiguous.

The meaning of "worth" and of *tikkun olam* becomes even more complicated in modern-day Israel. Do we regard captured soldiers the same way we regard captured civilians? Are terrorists who kidnap equivalent to the pre-modern captors our sages were familiar with? Are the rules in times of peace different from the rules in times of war?

These issues also raise larger questions about the "Jewishness" of the State of Israel. Must the Jewish State behave according to Jewish tradition in this matter, or should it prioritize other concerns and views?

Israel has faced these questions before, and over the years, different rabbinic authorities have taken different positions. For example, Rabbi Zalman Melamed in *Pninei Halacha* (1998-2002) writes the following:

> We learned [from experience] that we should never succumb to the financial blackmail of captors, except when lives are on the line, in which case there are different opinions. This is only in the case of criminal captors, who only want to make money. But when the context is ongoing war between us and terrorists, we can never surrender to their blackmail. For if we surrender, our enemies will see it as a sign of weakness, their morale will heighten, and they will continue to harm us. We also know that after these "successes," more terrorists emerge. They will also realize that they can be captured [by Israel] and then released in prisoner exchanges. Furthermore, they will continue harming us. Therefore, despite the tragedy, we cannot surrender to blackmail and cannot pay more of what is acceptable, which is one life for one life.

In Melamed's view, in a perpetual war, one always needs to project strength first, and the mitzvah of *pidyon shvuyim* plays a secondary role to what he views as security. He does concede elsewhere that in the case of a long-term peace agreement, the rules change and all prisoners can be released in exchange for hostages:

> We are in a time of complex and prolonged war with the Palestinian nation, and from them come groups of fighters who viciously attack the Jewish nation living in its land, and the context is national; as long as we don't find a solution, this war will continue and get worse…

> And if we are already discussing the idea that Rabbi Goren writes, that a negotiation deal will strengthen the numbers of terrorists because we are releasing trained terrorists, etc. This is true, but let us ask, did those leaders who negotiated the deal, such as the minister of defense, not know this? But instead, there was another point that countered this: the soldiers' morale. When a soldier knows that if he falls captive, the whole State of Israel will stand behind him to redeem him, he will fight fearlessly, but if he thinks that he won't be ransomed for more than he is worth, he will likely say, I would rather fall back than be taken captive. And who knows how to assess the more significant threat: strengthening the terrorists by releasing their friends, or increasing soldiers' morale for future wars if they will G-d forbid occur?

We learn from both Halevy and Goren (at least as he is presented by Halevy in this text) that context remains central to our understanding of hostage exchange today. It is not merely a case of "solidarity vs. security" but a question of what "security" means. For Halevy, caring for soldiers is a security issue. Knowing that the State will have your back is central to a functioning society, and fits into the same logic as our tradition. This is all the more true in the case of hundreds of civilians, including whole families, who are being held captive.

Halevy suggests as well that understanding the captor's motivation is critical. In the Israeli case, he suggests that as long as there isn't peace, we must understand that motivations for kidnapping are ever-present, and we should not fear that ransoming will convince the captors to kidnap again, as they will continue regardless.

In the case of modern Israel, this sadly seems to to be the reality. Many who are opposed to ransoming captives point to the fact that one of the architects of the October 7 attack was released from an Israeli jail as part of the hostage exchange for the soldier Gilad Shalit in 2011. But it is also worth remembering that more recently, when Israel has refused to release prisoners—as in the cases of Avera Mangisto, who was taken in 2014, and the bodies of fallen soldiers Oron Shaul and Hadar Goldin—Hamas has not stopped kidnapping. This suggests that Halevy is correct: Israeli action has little effect on Hamas's interest in kidnapping Israelis.

The context is complicated and ever-changing, and one can get lost in the different arguments about the meaning of security and the contributions of various sages. Further, the interpretation of these texts is always affected by the interpreter's political worldview.For example, Finance Minister Betzalel Smotrich suggested that the hostage negotiations should be taken off the table, saying "we should have been the one refusing to conduct negotiations and speaking only in fire and brimstone … that's the only way to bring all the hostages back and restore security for the State of Israel."

In 1976, Palestinian terrorists hijacked a plane full of Israelis and diverted it to Entebbe. As the government deliberated the right course of action, Rav Ovadia Yosef, then Chief Sephardic

Rabbi of Israel, wrote a lengthy responsum covering various aspects of the operation. A substantial part of Rav Ovadia's *psak* deals with military operations, but he includes this point, which I find a helpful framing for thinking about this issue today:

> It seems that most of the *poskim* understand that when there is [life-threatening] danger, we ransom prisoners for more than they are worth, and we didn't find any of the great *poskim* saying the contrary, so it seems that by law, we should behave this way. In this specific case, even for those who use the reasoning of not ransoming for more than their worth for fear of more captives in the future, when there is an **immediate and real threat of [the captive's] death, we do not use this rationale.** And also here, where they [terrorists] do everything they can to kidnap and kill and murder in order to terrorize our everyday lives in Israel … the law stands. (Emphasis added.)

Even as he recognizes that the context is complicated, and that security questions are continually shifting and being debated, Rav Ovadia returns to communal responsibility. He insists that if hostage release remains contingent on other concerns, it risks making the law irrelevant.

Rav Ovadia reminds us that most of us are not actually strategists, and we don't understand the military and geopolitical implications of hostage release. Pretending that we are can lead us to

forget the rules and their ethical importance. Ransoming hostages is at the core of our tradition. The call for care and for doing everything possible, including ransom, is crucial for those of us thinking about community from any perspective. Pitting solidarity against security from each other is a false dichotomy that can lead us to lose track of our communal responsibilities. The 1976 event ultimately ended with a successful military raid.

Every day here counts. I pray that by the time this piece is published, all of our hostages will be safely at home with their families. But until then, our role is to make their names heard in our communities as loudly as possible, and to continue to push for their release in any way we can. In the words of the prophet Jeremiah, "And there is hope for your future, declared the Lord, that your children should return to their borders." (31:17)

Endnotes

[1] Avital Davidovich-Eshed et al, "The Hostages and Why We Must Redeem Them: A History," *Commentary*, October 20, 2023.