



How Many Terrorists is Ron Arad Worth?

Ransoming Hostages in Jewish Thought

Session plan

1. Intro to prisoner exchange
2. How do you feel about it? Was it a good move?
3. What are the arguments for and against?

For

- Israel has a moral obligation to do whatever it takes to redeem its citizens.
- Jews have a halachic obligation to do whatever it takes to redeem captives
- The soldiers were injured during their capture and have probably been tortured. We must save them now, because they are in immediate danger.
- Israel must do everything it can to redeem captives like Shalit, Goldwasser and Regev because if not, our soldiers will retreat in battle rather than risk capture.
- Not all of the terrorists to be released have “blood on their hands”.

Against

- Exchanging hundreds of terrorists for one Israeli encourages future kidnappings of Israelis.
- There is no such thing as a “harmless” terrorist. Many of the 1150 terrorists released in 1985 returned to terror. A number of recent suicide bombings were carried out by terrorists released in previous exchanges and amnesties.
- This exchange will give Hizbullah tremendous prestige among the Lebanese population, undermining the efforts of the IDF to destroy them.

How should the government have resolved this moral dilemma? What principles should be brought into play?

a. Shulchan Aruch

Why does redeeming captives take such precedence? (hint – the last line) – it’s likened to *pikuach nefesh*. The logic is that failing to redeem a captive entails risking his or her life.

If this were the case, there would be no dilemma! But there are countervailing arguments:

b. Gittin

What does the mishnah mean by *tikkun olam*? How might refraining from redeeming captives be a way of repairing the world? (clue – the focus here is global rather than particular or personal).



How does the gemara interpret the mishnah? If “tikkun olam” refers to not burdening the community, how might we still ransom captives? – by individuals ransoming them.

What is Abaye implying? – that the problem is nonetheless that of encouraging bandits.

CONCLUSIONS up to this point:

The absolute obligation of redeeming captives (based on pikuach nefesh) is limited by the concept of tikkun ha-olam – probably warning against encouraging kidnapping by inflating the ransom payments.

What moral should the government have drawn from this?

- i. How many Arab prisoners is one Jewish prisoner worth? Is the price inflated such that it will encourage Hizballah?
- ii. Is the prisoner exchange likely to entail more danger for the Jewish people/Israelis?
- ii. If the injunction is based on pikuach nefesh, how can we justify bringing back the bodies?

We seem to have a moral dilemma, wherein the danger to the captives is weighed up against the danger resulting from the release of terrorists. This situation is also alluded to in Jewish texts:

C. Yerushalmi – Rav Imi

What principles do 1. Rabbi Yonatan and 2. Resh Lakish represent? 1. It's forbidden to endanger yourself in order to redeem a captive, 2. It's forbidden to abandon captives in order to save your own life.

How does this dilemma relate to the prisoner exchange? -> Is the government licensed to endanger the public in order to bring prisoners home?

D. Tosefta Terumot

How is this text relevant? A community is not allowed to pick out an individual to be sacrificed in order to save the majority. But an individual named by attackers may be sacrificed.

E. Why? Who is Sheva Ben Bichri? Are we talking about anyone who attackers single out or are we talking about someone who shares characteristics with Sheva? (**Yerushalmi Terumot**)

F. The Rambam answers the question: only someone guilty of a capital crime, when singled out by the attackers, may be sacrificed.

How does this relate to Shalit, Goldwasser and Regev?

Do these texts teach us anything about passively abandoning someone to avoid potential danger rather than actively sacrificing them to avoid certain death?



Does Rambam's psak apply to the Israeli government in this case?

CONCLUSIONS up to this point

On one hand: it is forbidden to ransom captives at an inflated price. On the other there is a debate about whether a community should endanger itself for the sake of an individual's life.

G+H. Two contemporary opinions on this point – Rabbi Halevi and Gerald Steinberg

I. Rosenberg – conclusion. What is the basic ethical tension underlying the whole debate



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Ransoming Hostages in Jewish Thought (participant handout)

Previous prisoner exchanges – how many prisoners were returned?

	Israelis	Arabs
Six Day War	4	6000 soldiers
Yom Kippur War	294	8400 soldiers
November 1983	6	4500 Lebanese + 99 Terrorists in Israel
May 1985	3	1150 terrorists
February 2004	1 + 3 Soldiers killed in action then buried in Israel	435 (400 Palestinians, 23 Lebanese, 12 other) plus bodies of 59 Lebanese

A Shulkan Arukh, Yoreh De'ah 252 (Laws Of Tzedaka)

The freeing of captives takes precedence over feeding and clothing the poor. There is no commandment greater than freeing of captives; therefore, any money which is collected for another purpose may be diverted in order to free captives. Even if money was collected to build a synagogue and they have already purchased the wood and stones needed and set them aside for the building, it is still permissible to sell them in order to free captives. But, if they have already built the synagogue they may not sell it.

One who averts his eyes ignoring the duty to free captives transgresses the following prohibitions: “Do not harden your heart and hot your hand” (Deut. 15:7); “Do not stand idly by the blood of your neighbor” (Lev.19:16); and “He shall not rule ruthlessly over him in your sight.” (Lev. 23:53).

In addition, he nullifies the following positive commandments: “You surely must open your hand to him” (Deut.15:8); “Let him live with you as your brother (Lev. 19:18); “Deliver those who are drawn toward death” (Prov. 24:11) and many other abominations.

Every moment which one delays in freeing captives, in cases where it is possible to expedite their freedom, *is considered to be tantamount to murder.*



B Talmud Bavli, Tractate Gittin, 45a (Mishnah Gittin 4:6)

MISHNAH. Captives should not be redeemed for more than their value, for the sake of “*tikkun ha-olam.*”....

GEMARA. The question was raised: Does this “*tikkun ha-olam*” relate to the burden which may be imposed on the community or to the possibility that the activities [of the bandits] may be stimulated?

Come and hear: Levi bar Darga ransomed his daughter for thirteen thousand denarii of gold.

Said Abaye: But are you sure that he acted with the consent of the Sages? Perhaps he acted against the will of the Sages.

C Talmud Yerushalmi, Tractate Terumot,
Chapter 8, Halacha 4

Rav Imi was taken prisoner and his life was in danger. Rabbi Yonatan said: the dead should shroud himself in his sheets. Rabbi Shimon ben Lakish said: before I kill, I will be killed. I will go and save him. He went and appeased [the kidnappers] and they returned [Rav Imi] to him.

D Tosefta, Tractate Terumot, Chapter 7 (end)

A group of people, to whom non-Jews said: “Give us one of your number and we will kill him. If not – we will kill you all.” They must all be killed rather than handing over a single soul of Israel. But if they specified someone by name - as they specified Sheva Ben Bichri (II Samuel 20)– he should be handed over to prevent them all from being killed.

E Talmud Yerushalmi, Tractate Terumot, Chapter 8, Halacha 4

Rabbi Shimon ben Lakish said: they are referring to someone who is guilty of a capital crime, like Sheva Ben Bichri. Rabbi Yohanan said: even if he is not guilty of a capital crime like Sheva Ben Bichri was.



F Maimonides, Mishneh Torah, Foundations of the Torah,
Chapter 5

.... If they specified someone by name, saying: “Give us such-and-such or we will all of you;” if the person specified was guilty of a capital crime, like Sheva Ben Bichri, he should be handed over – but this should not be done at the outset. If he is not guilty, everyone should be killed rather than handing over a single soul of Israel.

G Cited by Rabbi David Golinkin

[Former Israeli Chief] **Rabbi Goren** says that we must learn the law from the Mishnah in Gittin that we do not pay more than their value. **Rabbi Hayyim David Halevi**, who was Chief Rabbi of Tel Aviv, admits that Rabbi Goren’s ruling, based on Gittin and on the rulings of leading authorities, is “clear and correct”. Nonetheless, he disagrees with Rabbi Goren. All of the sources quoted deal with robbers who kidnap people for money, but we are dealing with a war based on Palestinian nationalism. They will continue to kidnap Jews regardless of what we do, so the price we pay for captives is not a factor and does not increase terror.... The Government of Israel decided that if an Israeli soldier sees that the State will not redeem Israeli soldiers for a high price, they will prefer retreat to capture. This too can be considered a halakhic innovation. Therefore, he does not think that the State of Israel acted against Jewish law in exchanging 1150 terrorists for 3 Israeli soldiers.

David Golinkin is the President of the Schechter Institute and Chairperson of the Law Committee of the Masorti Movement in Israel

H Gerald M. Steinberg

.... [I]n each of these dimensions — the ongoing confrontation with Hizbullah, its attempt to increase its visibility in terms of Palestinian issues, and with respect to Iran, there are few if any political or security-related benefits for Israel. On the contrary, an agreement is likely to work against Israeli interests, and, based on previous experience, could trigger a round of attacks from Hizbullah from Lebanon (to demonstrate the continued hostility), as well as expanded cooperation with Palestinian terror groups.

In the IDF, the moral and ethical principle of collective responsibility for each and every soldier, alive or dead, is extremely important, and it is clear that there is a price for return of the captured prisoners.

If Ron Arad or any of the other Israeli MIAs captured and held in Lebanon is miraculously returned alive, there will be little criticism. But for anything less, the balance remains unclear, and the risks must be carefully measured against the benefits.

The writer is the director, Program on Conflict Management and Negotiation, political studies department at Bar-Ilan University.



I

Shalom Rosenberg

.... There are two basic competing approaches in ethics. One, known as the "deontological" approach, propagated by Emmanuel Kant, for instance, defines ethical behavior itself. Lying is forbidden because a lie is in itself bad. The other approach, the "consequentialist" approach, such as utilitarianism, for example, determines the morality of the actions by their consequences to human society.

.... [T]he Maharam, Rabbi Meir Ben Baruch of Rottenburg, the greatest Jewish scholar in 13th-century Germany ... was arrested following a malicious denunciation. The authorities demanded an exorbitant price for his release, and even though the communities were willing to pay the ransom, the Maharam refused to be released under such conditions, and died in jail after seven years of captivity! And all that was because of the principle of "for the sake of tikkun haolam."

.... "Tikkun haolam" expresses the need for macro-ethics, fundamentally different from micro-ethics, the duty to take the common good into consideration, for the good of all individuals. Ethics have to be based on a sort of "macro-ethical economics," that tries to weigh all ethical duties and reach a general conclusion. This involves weighing the sorrow of the abducted against the danger to innocent travelers; the lives of the innocent against the lives of our fellow soldiers who endanger themselves in necessary actions to prevent even more innocents from being hurt.

.... May we ignore the pain of our brothers? The Mishna teaches us that, unfortunately, we must sometimes do so, out of broader considerations for the sake of "repairing the world."

.... The Odyssey tells the story of Ulysses who, on his long maritime journey, reached the place of the Sirens. Their wonderful singing always enchanted the sailors who were drawn to it and drowned in the depths of the sea. Ulysses plugged the sailors' ears with wax. He ordered himself to be tied to the mast and not to be released until they left the danger area.

This tale is a wonderful allegory for our own situation — the Siren song of our moralists, and, cruelly, the cries of those who suffer. The ears of our military people must be plugged. Our captains have to hear the Sirens' song, weigh it, but also be tied to the mast, to the totality of the more important and general macro-decisions. What seems like a moral song is nothing but an invitation to disaster. We must look for the more complete and truer song.

The writer is professor emeritus of philosophy and Jewish thought at the Hebrew University.