

## Freeing the Captive- how far must we go to save a person?

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Life and death play a prominent role in our High Holy liturgy. On Rosh Hashanah & Yom Kippur, we read the *Untaneh Tokef* prayer where we recite, “On Rosh Hashanah it is written, on Yom Kippur it is sealed: How many shall pass on, how many shall come to be: Who shall live and who shall die, who shall see ripe age and who shall not.” The list continues by the listing the ways one’s life could end by fire, water, sword, beast, hunger, thirst, earthquake, and etc. This prayer expresses our mortality. We don’t know how or when we will die but we are all certain that it will happen, hopefully not for many, many years to come. On Yom Kippur, we are taught that our fate is sealed. Life and death during our High Holy Days hangs in the balance as we scrutinize our actions and words in the hope that through *teshvuah*, *tzedakah*, *u’tefillah*, repentance, charity, and prayer, the severe degree of death is tempered and that we are granted another year of life.

Two men’s lives were sealed prematurely. Almost two years ago, James Foley, a photo journalist, was taken captive by the Islamic terrorist group, known as ISIS. As a journalist he repeatedly went to war torn countries. He had even been taken captive in Libya and was held for 44 days.<sup>1</sup> ISIS initially demanded 123 million dollars for his release. At the beginning of the summer, our government attempted to rescue him and other hostages. Two dozen Delta Force commandos raided an oil refinery in northern Syria. After a fire fight with Islamic militants, there were unfortunately no hostages to be found.<sup>2</sup> The story of James Foley’s life ended brutally.

And then there was Steven Sotloff. Steven Sotloff, a nephew of a family in Orange County, was a free lance journalist for years and has spent much time going into hazardous conflict zones in order to write for Time magazine, The Christian Science Monitor and World Affairs Journal. He knew that this was dangerous work. A year ago, he was abducted by the same radical Islamic group in northern Syria as he reported on the civil war. Tragically at the beginning of September, like James Foley, he was murdered. His death was broadcast to the world via the Internet. Hearing or witnessing both men’s death was heart wrenching and upsetting for all of us. I can’t even imagine the pain or their families.

As much as we may hope it is unlikely that they will be the last hostages taken. Even as our government undertakes a military bombing campaign to dismantle the Islamic State, it is improbable that it will be completely eradicated. In addition, it’s hard to see how the US can prevent reporters or other American citizens from going into conflict ridden zones. With this in

mind, we may well find ourselves again in a heart wrenching position where an American or a Jew is being held hostage.

This situation raises difficult ethical questions of what an individual, community, or country can or should do when a loved one is kidnapped. How far should one go to procure a person's release from captivity? The challenge of dealing with terrorists raises questions where right and wrong responses can be muddled. For example, what if the saving of one life leads to the murder of hundreds or thousands of others? What if in trying to save a life, one inadvertently supports terrorists by acquiescing to their military demands or providing funding for their wars and massacres? How much is one life worth?

I found myself asking these very questions while Steven Sotoloff's life was still up in the air. There was a petition circulating where we were asked to sign up to urge the Obama administration to "Do everything possible to free American reporter Steven Sotloff from ISIS and to save his..**life by any means necessary.**"<sup>3</sup>

I understand on an emotional level why this petition was sent out. If I had a family member taken captive, if it was my brother, nephew, or son, I would want the full resources of our government to be used to free him. I wouldn't care how many US soldiers would be put in harm's way, how many Iraqi or Syrian civilians would suffer, or how much money was paid. I would just want my loved one home safe and sound. When it comes to personal relationships, the significance of even millions of other human beings pale in comparison to the people we love.

Unfortunately, taking people captive is a crime as old as humanity. Jews, in particular, over the millennia have been kidnapped and our family and community were extorted to pay huge sums of money. Recognizing the pain of the family members and the suffering of the victim, the Talmud teaches that *pidyon shvuyim*, freeing the captive, is a '*mitzvah rabbah*, a great commandment' because captivity is worse than starvation and death.<sup>4</sup> In the Middle Ages, Maimonides in the Mishneh Torah, ruled that he who ignores ransoming a captive is guilty of transgressing commandments such as "you shall not harden your heart." (Deuteronomy 15:7); "you shall not stand idly by the blood of your brother" (Leviticus 19:16).<sup>5</sup>

Such texts could be used to support extraordinary measures to free any captive. But is it unconditional? Should we as Americans or Jews acquiesce to terrorist demands by changing our foreign policy or paying them millions of dollars in order to gain the freedom of one person? Our Jewish tradition offers some advice on this question. In the Mishneh, Gittim 4:6, teaches that וְאִין מְבַרְיחִין אֶת הַשְּׁבוּיִין, מִפְּנֵי תַקוּן הָעוֹלָם.

"captives should not be redeemed for more than their value because of tikkun olam."<sup>6</sup> What does *tikkun olam* mean? We understand it to mean repairing the world but here in this context our rabbis see it as representing the greater good. They realized that paying a ransom or giving

in to kidnappers' demands could lead to greater harm. Even thousands of years ago, our people could see that by paying ransom one is encouraging criminals to take more hostages and demand even higher ransoms. By doing anything necessary to free one captive, the outcome could lead to many more people being taken hostage and work against the greater good, *tikkun olam*, of all. This ruling from Mishneh Gittim would support our government's view of not paying ransom for hostages. When ISIS asked for millions of dollars for the freedom of Foley almost two years ago, Gittim states that before any ransom is paid, we must weigh what is 'tikkun olam', what is the greater good, what is in the greater interests of our people.

The abduction of captives is something that Israel has sadly had to deal with. They have responded in different ways to various kidnappings. I want to share with you the response by Rabbi Goren, the former chief rabbi of the Israel Defense Forces and later of the State of Israel in years, quoted by Rabbi David Golinkin of Schechter Institute of Jewish Studies in Jerusalem. Goren says "that we must learn the law from the Mishnah in Gittin that we do not pay more than their value...because this will encourage the kidnappers to kidnap more Jews and endanger the public." Goren adds that the safety of one or a few Jews in captivity does not take precedence over the safety of the entire public."<sup>7</sup>

Rabbi Goren is speaking about whether Israel should meet the demands of terrorists by freeing hundreds or thousands of prisoners in exchange for a few Israeli captives. He is unequivocally against this because it would encourage more kidnappings by allowing people to go free who will take up arms against Israel.

I believe Rabbi Goren's take on our Mishneh and Talmud is very relevant to U.S. citizens being taken hostage. Let's look at ISIS.

ISIS, The Islamic State in Iraq and Syria, also known as ISIL or Islamic State, originated in 2006, in Iraq. The aim of ISIS is to create an Islamic state across Sunni areas of Iraq and in Syria. ISIS controls hundreds of square miles where state authority has evaporated. It ignores international borders and has a presence all the way from Syria's Mediterranean coast to south of Baghdad.<sup>8</sup> ISIS is a threat to Syria, Iraq, and even to the United States. Secretary of Defense Chuck Hagel on August 21 described the challenge of the Islamic State as a "whole new dynamic. "He said the group was "as sophisticated and well-funded as any organization we've seen." "Oh, this is beyond anything we've seen," he said emphatically in response to a question as to whether the Islamic State represented a "9/11-level threat" to the U.S.<sup>9</sup> President Obama furthermore said on Sept. 10, that ISIL "...kills children. They enslave, rape, and force women into marriage. They threatened a religious minority with genocide."<sup>10</sup>

Hostage taking by ISIS has been very profitable by financing their operations. Rukmini Callimachi of *The New York Times* explains in an interview on National Public Radio on Aug. 21<sup>st</sup> how militant groups such as ISIS target victims to raise funds.

Callimachi says in this interview: “Of the 53 known hostages that have been taken by al-Qaida's immediate affiliates in the past five years, less than 6 percent of those were American. And if you think about that, that's kind of astonishing, given America's outsized rule in Iraq and in the Afghanistan conflicts, which are conflicts that have fueled the Islamist extremist movement. By contrast, almost a third of the hostages that I was able to track were French.”

He continues: “I was able to determine that European governments have paid up to \$125 million, just in the last five years, to pay for the release of European citizens that were being held by al-Qaida and its direct branches in Africa and the Middle East. And according to the U.S. Department of Treasury, this has now become the main source of funding for al-Qaida.”<sup>11</sup>

Whether terrorist groups are demanding money, changes in our foreign policy, or the freeing of prisoners, I believe great thought must be given to the consequences. If, for example, paying terrorists millions of dollars finances their ability to continue the wars in Syria and Iraq and murder thousands of people, is it worth it? Is it worth freeing known murders who will go back to killing and raping? And what about if you acquiesce to a terrorist's demand, have you inadvertently endangered the next American reporter who is covering the next battle?

What a terrible situation! What an awful dilemma to have American citizens taken hostage and there is really nothing that you or I can do. It is hard to be helpless. We don't have the power to melt a terrorist's heart and have them feel compassion. We don't have the power to prevent all Americans from coming into harm's way. And it is the responsibility of our government to act in the greater good, *tikkun olam*, of our nation. It is so hard when there is nothing we can do.

This feeling is sadly an emotion, we experience at other times in our lives when we are powerless to stop something terrible from happening. At some point, we will all face a situation where our options are severely limited. No matter what we do, for example, there comes a day when we can't reverse a medical diagnosis. The illness or cancer has progressed to such a point that there is no medical procedure left that can save a loved one. Our feelings of helplessness are not limited to medical emergencies. Sadly, many of us have friends or family members who harm themselves through poor spending habits or the abuse of alcohol or drugs. We can't control the choices that others around us make. Furthermore, if we try to save someone from their own destructive habits, we can inadvertently perpetuate the behavior or

even make things worse. In all these situations, we find ourselves feeling powerless because we don't have the ability to change or alter a terrible situation.

I believe in such times when action is limited, there is something we, as individuals, can do. Our *untaneh tokef* prayer offers some guidance with the words, *teshuva, tefilah, u'tzedakah.*" When there isn't a remedy, when there isn't a clear path, we have repentance, prayer, and charity. Repentance is about how we live the days we have. We can work harder on loving people around us and apologizing when we fall short. We can affirm and treasure our relationships. Tzedakah, giving of charity, is how we help our fellow Jews, Americans, and human beings live a better life. This is important throughout the year but especially around the High Holy Days. And when all else fails, we have tefillah, we have prayer. We can pray for freedom, for justice, for strength, and for hope. Prayer gives voice to our fears, connects us with community, and expresses our hope for better days ahead.

And so I would like to offer this prayer: Adonai our God, you who has the power to free the captive. Please help keep our people out of harm's way. Protect them wherever they are. Help our nation and the good people of the world defeat any groups that devalue your gift of life. Assist us in working towards *tikkun olam*, creating a better world, where people can travel, work, and live without fear. Help bring shalom, peace and wholeness to the war battered countries. Also help give us hope when we feel hopeless. Give us strength when we are demoralized. And help us live up to the best version of ourselves that we can be. May we be compassionate, loving, and charitable. And may we find blessings in your gift of life.

### **Research/Notes:**

#### **1 LA times Aug. 25, 2014**

#### **2 Military attempt to save Foley:**

<http://www.nytimes.com/2014/08/21/world/middleeast/us-commandos-tried-to-rescue-foleyandotherhostages.html?action=click&contentCollection=Middle%20East&module=RelatedCoverage&region=Marginalia&pgtype=article>

#### **3 Petition:**

WE PETITION THE OBAMA ADMINISTRATION TO:

Do everything possible to free American reporter Steven Sotloff from ISIS in Syria and save his life.

Steven Sotloff is an American citizen and reporter with Time magazine who is believed to have gone missing in August of 2013. Today, on August 19, 2014 it was revealed that Steven is a captive of the Islamist terrorist organization ISIS. Steven appeared at the end of a video in which reporter James Foley was beheaded. In the video, Steven is seen at the end declaring that he will be next.

We, the undersigned call upon you, President Obama, to take immediate action to save Steven's life by any means necessary. Created: Aug 19, 2014

#### 4 Bava Batra 8b

##### 5 Maimonides Mishneh Torah: Mattenat Aniyyim/Gifts to the Poor 8:10

<https://www.cjebaltimore.org/sites/default/files/Texts%20on%20Redeeming%20Captives.pdf>

10) The mitzvah (commandment) to ransom captives takes precedence over supporting and clothing the poor. Indeed, no commandment, be it ever so important, can compare with that of redeeming the captives, since the captive is in the category of those who suffer hunger, thirst, nakedness, and are ever in mortal danger. One who is willfully slack in aiding to ransom a captive transgresses the commandments: You shall not harden your heart, nor shut your hand from your needy brother (Deut 15:7)

12) Captives are not to be redeemed for more than their value because of Tikkun Olan (the responsibility to repair the world), in order that enemies not increase their captive taking

##### 6 Mishneh Gittin 4:6/Talmud - Mas. Gittin 45a

Talmud: Gittin MISHNAH. CAPTIVES SHOULD NOT BE REDEEMED FOR MORE THAN THEIR VALUE, TO PREVENT ABUSES. 16 CAPTIVES SHOULD NOT BE HELPED TO ESCAPE, TO PREVENT ABUSES.

16) Lit., 'for the good order of the world'. I.e., so that the captors should not demand excessive ransoms.

##### 7 Rabbi David Golinkin Ransoming Captive Jews

[http://www.myjewishlearning.com/practices/Ethics/Caring\\_For\\_Others/Social\\_Welfare/Ransoming\\_Captives.shtml](http://www.myjewishlearning.com/practices/Ethics/Caring_For_Others/Social_Welfare/Ransoming_Captives.shtml)

##### ... Recent Responsa

Since 1971, many rabbis have written responsa or halakhic articles about our current dilemma. Most have ruled that Israel may not exchange hundreds or thousands of terrorists for a few Israeli soldiers. We shall summarize the opinions of Rabbi Shlomo Goren, who was against such exchanges, and of Rabbi Hayyim David Halevi, who justified Israel's actions in 1985 after the fact.

Rabbi Goren [former chief rabbi of the Israel Defense Forces and later of the State of Israel] says that we must learn the law from the Mishnah in Gittin that we do not pay more than their value. It is true that Tosafot in Gittin 58a said that when there is danger to the captive we may indeed pay more than the captive is worth. But Ramban (Spain, 1195-1270) and Rashba (Spain, 1235-1310) disagree. Furthermore, all captivity in ancient times was dangerous (see Bava Batra 8b quoted above), and the Mishnah nonetheless ruled that one does not pay more than the captive's value because this will encourage the kidnapers to kidnap more Jews and endanger the public.

He adds that the safety of one or a few Jews in captivity does not take precedence over the safety of the entire public. In addition, he agrees with the Radbaz, and not R. Yosef Karo, that a person does not have to put himself in possible danger in order to save his fellow Jew from definite danger.

Finally, in our case, freeing hundreds or thousands of terrorists definitely endangers the public because they will all be free to attack Israel and to take more hostages. Therefore, everything Israel did is against the halakhah of the Mishnah and the legal authorities and against the security of the Jewish people in Israel and the Diaspora, says Rabbi Goren.

### **Summary and Conclusions**

We have seen that pidyon shvuyim is a major value in our tradition and that Jews have exerted great efforts to redeem captives. However, we do not pay excessive ransom "mipney tikkun olam," for the public good. In other words, the public takes precedence over the individual, even if this endangers the individual. Exchanging hundreds or thousands of terrorists for one Israeli encourages kidnapping of Israelis, and frees hundreds or thousands of terrorists who will pick up their weapons and attack Israel. In other words, it endangers the public and should not be done

<https://www.jewishvirtuallibrary.org/jsource/Judaism/redeemgilad.html>

**8 <http://www.cnn.com/2014/06/12/world/meast/who-is-the-isis/>**

**9 <http://www.npr.org/blogs/thetwo-way/2014/08/21/342232267/isis-beyond-anything-we-ve-seen-hagel-says>**

**10 <http://www.whitehouse.gov/the-press-office/2014/09/10/remarks-president-barack-obama-address-nation>**

**11 [Who is more likely to be taken hostage?](#) Rukmini Callimachi of *The New York Times***

<http://www.npr.org/2014/08/21/342228842/the-dynamics-of-demanding-ransom-from-nations>