



Editor: Bruce Maddy-Weitzman

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Hamas, Hezbollah and the Issue of Hostages and Missing Combatants

Ephraim Lavie

In recent years, Israel has been forced into indirect negotiations with Hezbollah and Hamas for the purpose of exchanging military prisoners, civilian hostages and soldiers missing in action. The standpoint adopted by both non-state Islamic organizations on this issue was influenced by national-political deliberations, public discourse and social pressure exerted by families of those being held on both the Israeli and the Arab sides.

Interestingly, Islamic *Shari`a* law played a much smaller part in Hezbollah's and Hamas's calculations regarding the issue. According to the common Islamic interpretation, promoting the name of Allah and Islam through the believers' wars is the chief objective, whereas the taking of enemy combatants as hostages is of secondary importance. This being said, Islam does refer to the question of the treatment of enemy troops by Muslim captors. The term "*asir*" in Arabic, which means "captive", appears in three verses in the Qur'an, and in several places in the *Hadith* (oral teachings and traditions). Qur'anic verses determine that believers must treat captives humanely: they must not kill, torture, hit or starve them, but rather treat them mercifully, protect their honor and make them wish to convert to Islam. Contemporary Islamic adjudicators, such as the Egyptian Yusuf al-Qardawi and the Saudi Arabian Muhammad Salah al-Manjad, make use of these verses to highlight the humane nature of Islam, emphasizing that Islam addressed the subject long before its introduction into international law. They also make use of the commonly accepted Islamic interpretation which posits that captives may be given clemency, ransomed for money or exchanged for Muslim captives held by the enemy.

These religious injunctions regarding the humane treatment of hostages were not employed by Egypt, Syria and Jordan when soldiers were taken

captive during or between Arab-Israeli wars. For the most part, POW's and dead soldiers were exchanged between Israel and the Arab states as part of bilateral ceasefire agreements, without Arab leaders being influenced by pressure either from the families of the hostages and missing soldiers, or from the public discourse in the media. This apparently is due to the fact that neither the Qur'an nor the *Hadith* make direct and explicit reference to Muslim captives. Islam offers no answer on how to deal with cases of Muslim prisoners or dead bodies (*shahids*) held by the enemy. Arab Muslim society did not develop an obligation for "ransoming hostages" similar to that of Judaism, nor did it develop a commitment to ensure a proper burial for every dead combatant as a result of "the sacredness of the deceased", or offer guidance on the sensitive socio-religious issue of granting a divorce to wives of absent combatants. A deeper explanation for this absence lies, it seems, in the general context regarding Muslim *Shar'ia* law's view on the value of human life and its perception of the Muslim warrior as a representative of the entire Muslim community (*ummah*).

Human life is a primary religious value, and the sacredness of life is a fundamental teaching in all monotheistic religions, which stipulate that God created man and gave him the right to live. Amongst Muslim believers, their approach to human life is also derived from the community's expectation from the Muslim warrior to act as a believer who understands that his foremost commitment is to the Muslim *ummah*, and whose supreme guiding principle is the desire for an afterlife in heaven, while life on earth is renounceable if it serves the ultimate goal. In other words, in the ethos of *jihad* or "holy war", we find the aspiration for martyrdom, which is explained in terms of sacrifice of the individual for the good of the community, with the implication being that the Muslim warrior is expected to sacrifice his life rather than allow himself to be taken captive.

In the last decade, important *Shari'a* adjudicators were asked to deliberate on the Islamic stand in cases when Muslims are taken prisoners by the enemy. These inquiries gave rise to a number of significant rulings, the most important of them being the stipulation that Muslims must try and free their captives from the enemy in any way possible. The first way this should be achieved is by paying ransom, but if Muslims also hold enemy captives, both sides should exchange prisoners. Only if both these options fail to produce results, Muslims are then obliged to undertake *jihad* and free their prisoners through combat.

Hezbollah and Hamas perceive the idea of the sacredness of human life in Judaism and in Israeli society as a negative value and a sign of social weakness. The custom of publically mourning the dead is seen by them as an emotional, cowardly and unmanly reaction, marking a flaw in the Israeli-

Jewish nation's moral resilience. In 2002, Hezbollah's leader Hassan al-Nasrallah declared that "the Zionists' lust for life, which makes them mourn each dead, will eventually be their downfall". Thus, it is of no coincidence that in recent years Hezbollah and Hamas have made concerted efforts to abduct soldiers, and even bodies, as occurred during the Second Lebanon War. They regard this to be a strategic instrument for the release of their own prisoners in the current state of affairs - their asymmetrical struggle against Israel.

As a rule, Hezbollah and Hamas treat Israeli captives fairly, as was in the case of Elchanan Tennenbaum and probably also in the case of Gilad Shalit. Members of Hamas emphasize over and over again that Shalit is "well treated, as Islamic law commands", and that they are holding him captive in order to obtain the release of the Palestinian prisoners held by Israel. They are aware of the significant advantages they can obtain for the exchange of a living Israeli hostage. The use of religious motifs is meant to add credibility to their reports on the soldier's condition, reinforce the legitimacy of the act of abduction, and, naturally, to justify their demands from Israel.

It seems that in recent years, Hezbollah's and Hamas's stand on hostages and missing combatants is increasingly influenced and dictated by their decision to place the issue on the public agenda. As a result, the issue has permeated Arab societies' social consciousness and media, creating legitimacy, for the first time, for engaging the subject from a humanitarian and social-cultural aspect, as well as a national one.

The Arab media, especially in Lebanon, also began covering the individual stories of the Lebanese prisoners, marking a point of convergence between the Lebanese and Israeli sides. Family members of prominent Israeli-held prisoners began making appearances in the media, which followed them over periods of time and exposed their personal and family stories; members of families were interviewed by different programs, and announcements were published either on their behalf or on behalf of supportive organizations; stories on the village and the area from which a prisoner came were broadcast; and news coverage of contacts between family members and the Hezbollah leadership, and with various international organizations, was provided.

Within Palestinian society, the issue of prisoners is regarded as one of both national and human importance, and as such should be prioritized by the Palestinian leadership. The prisoners are perceived as legitimate freedom fighters that were taken captive. Prisoners' families exert a great deal of pressure on the Palestinian Authority. This is not due to religious-Islamic motives, but rather to economic difficulties and social plight generated by

the problem of prisoners, for in this highly traditional society, their absence creates situations where children are left with no provider and women without husbands. In recent years, harsh public criticism has been leveled against the Palestinian Authority by the prisoners' families, due to its inability to bring about the release of prisoners through negotiations with Israel.

On the other hand, there are voices within Palestinian society which commend Hamas for kidnapping Gilad Shalit. Many regard it as an act which drives Israel into a corner, forcing it to seriously consider a significant freeing of Palestinian prisoners. And although the prisoners' families are looking forward to their loved ones' release as a consequence of an agreement between Hamas and Israel, they exert no pressure on the Hamas leadership to lessen its claims within the context of negotiations. Similarly, in the Lebanese case, families of prisoners and missing soldiers did not voice criticism against Hezbollah, and for the most part humbly accepted the details of the deals signed with Israel. Those whose loved ones were not included in a particular exchange were careful not to criticize Nasrallah, and merely voiced their hopes that efforts for the release of remaining prisoners would continue.

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