

Captivity, Trauma, and Halakhah

Session I: From Captivity to Pidyon Shevuyim:
Trauma, Communal Responsibility, and Its Limits

Section I: The Horrors of Captivity

I) Josephus, Jewish War VI.9

Those in the prime of life and fit for labor were driven into the Temple precincts and confined in the Court of the Women. Caesar appointed a freedman to supervise them and ordered Fronto, one of his companions, to determine the fate appropriate for each captive. The tallest and most handsome were reserved for the triumphal procession. Of the rest, all who were seventeen years old and above were put in chains and sent to forced labor in Egypt. Many others Titus distributed among the provinces to be killed in the amphitheaters by the sword or by wild beasts. Those younger than seventeen were sold into slavery.

II) Mishnah Horayot 3:7

<p>A man takes precedence over a woman with respect to saving life and the return of lost property. A woman takes precedence over a man with respect to clothing and redemption from captivity. When both face the danger of sexual violation, the man takes precedence over the woman.</p>	<p>האיש קודם לאשה להחיות ולהשיב אבדה והאשה קודמת לאיש לכסות ולהוציאה מבית השבי בזמן ששניהם עומדים לקלקלה האיש קודם לאשה</p>
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III) Tosefta Horayot 2: 5-6

<ol style="list-style-type: none"> 1. If a person, his father, and his teacher are all in captivity, he takes precedence over his teacher, and his teacher takes precedence over his father. His mother takes precedence over all others.... 2. A man takes precedence over a woman in saving life and returning lost property; a woman takes precedence in clothing and redemption from captivity. When both face disgrace, the man takes precedence. 3. There was an incident in which Rabbi Yehoshua was told: 'There is a young Jerusalemite here, beautiful and distinguished, destined for abuse.' 4. Rabbi Yehoshua tested him by reciting: 'Who gave Jacob over to spoil, and Israel to plunderers?' 5. The child responded: 'Was it not the Lord, against whom we sinned and did not want to go in his ways?' 6. Rabbi Yehoshua declared: 'I call heaven and earth as my witnesses that I will not leave this place until I redeem him.' 7. He redeemed him for a great sum and sent him to the Land of Israel. Concerning him it was said: 'The precious sons of Zion, comparable to fine gold.' 	<ol style="list-style-type: none"> 1. הוא ואביו ורבו עומדין בשבי הוא קודם לרבו ורבו קודם לאביו ואמו קודמת לכל אדם ... 2. האיש קודם לאשה ולהחיות ולהשיב אבדה האשה קודמת לאיש לכסות ולהוציא מבית השבי בזמן ששניהם עומדין בקלון האיש קודם לאשה 3. מעשה שהלך ר' יהושע ואמרו לו יש כאן תינוק אחד ירושלמי יפי עינים וטוב רואי ועומד לקלון 4. והלך ר' יהושע לבדוקו כיון שהגיע לפתח אמי המקרא הזה מי נתן למשיסה יעקב ישראל לבוזים: 5. נענה אותו תינוק ואמי הלא י"י זו חטאנו לו ולא אבו בדרכיו 6. באותה שעה אמי ר' יהושע מעידני עלי שמים וארץ שאיני זו מיכאן עד שאפדה אותו 7. פדאו בממון הרבה ושיגרו בארץ ישרי ועליו אמי בני ציון היקרים המסולאים בפז:
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IV) Gittin 57b

<ol style="list-style-type: none"> 1. Rav Yehudah said in the name of Shmuel: There was an incident involving four hundred boys and girls who were taken captive for purposes of sexual abuse. 	<ol style="list-style-type: none"> 1. אמר רב יהודה אמר שמואל, ואיתימא רבי אמי, ואמרי לה במתניתא תנא: מעשה בד' מאות ילדים וילדות שנשבו לקלון, 2. הרגישו בעצמן למה הן מתבקשים, אמרו: אם אנו
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<ol style="list-style-type: none"> 2. They understood what awaited them and asked: 'If we drown ourselves in the sea, will we merit the World to Come?' 3. The eldest among them expounded the verse: 'I will retrieve them from Bashan, I will retrieve them from the depths of the sea.' 'From Bashan' means from between the teeth of lions; 'from the depths of the sea' refers to those who drown in the sea. 4. When the girls heard this, they all jumped into the sea. 5. The boys then reasoned: If those whose natural way is thus acted in this manner, how much more so should we. 6. They too jumped into the sea. 7. Concerning them Scripture says: 'For Your sake we are killed all day long; we are regarded as sheep for the slaughter.' 	<p>טובעין ביס אנו באין לחיי העולם הבא?</p> <p>3. דרש להן הגדול שבהן : אמר ה' מבשן אשיב אשיב ממצולות ים, מבשן אשיב - מבין שיני אריה אשיב, ממצולות ים - אלו שטובעין ביס ;</p> <p>4. כיון ששמעו ילדות כך, קפצו כולן ונפלו לתוך הים.</p> <p>5. נשאו ילדים ק"ו בעצמן ואמרו : מה הללו שדרכן לכך - כך, אנו שאין דרכנו לכך - על אחת כמה וכמה!</p> <p>6. אף הם קפצו לתוך הים.</p> <p>7. ועליהם הכתוב אומר : כי עליך הורגנו כל היום נחשבנו כצאן טבחה.</p>
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V) Gittin 58a

<ol style="list-style-type: none"> 1. Rav Yehudah said in the name of Rav: An incident occurred involving the son and daughter of Rabbi Yishmael ben Elisha, who were captured and sold to two different masters. 2. Later the masters met. One said: 'I have a slave whose beauty is unmatched.' The other said: 'I have a maidservant whose beauty is unmatched.' They decided to marry them and divide the offspring. 3. They placed them together in a room. He sat in one corner and she in another. 4. He said: 'I, a priest descended from High Priests, should marry a slavewoman?' 5. She said: 'I, the daughter of High Priests, should marry a slave?' 6. They wept all night. At dawn they recognized one another, embraced, cried, and their souls departed. 7. Concerning them Jeremiah lamented: 'For these things I weep; my eyes flow with tears.' 	<ol style="list-style-type: none"> 1. אמר רב יהודה אמר רב : מעשה בבנו ובבתו של ר' ישמעאל בן אלישע שנשבו לשני אדונים. 2. לימים נזדווגו שניהם במקום אחד, זה אומר : יש לי עבד שאין כיופיו בכל העולם, וזה אומר : יש לי שפחה שאין בכל העולם כולו כיופיה, אמרו : בוא ונשיאם זה לזה ונחלק בוולדות. 3. הכניסום לחדר, זה ישב בקרן זוית זה וזו ישבה בקרן זוית זה, 4. זה אומר : אני כהן בן כהנים גדולים אשא שפחה? 5. וזאת אומרת : אני כהנת בת כהנים גדולים אנשא לעבד? ובכו כל הלילה. 6. כיון שעלה עמוד השחר, הכירו זה את זה, ונפלו זה על זה וגעו בבכיה עד שיצאה נשמתן. 7. ועליהן קונן ירמיה : על אלה אני בוכיה עיני עיני יורדה מים.
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VI) Gittin 58a – Tzafenat bat Peniel

<ol style="list-style-type: none"> 1. Reish Lakish said: There was once a woman named Tzafenat bat Peniel. She was called <i>Tzafenat</i> because all gazed upon her beauty, and <i>bat Peniel</i> because she was the daughter of a High Priest who ministered in the Holy of Holies. 2. A captor abused her throughout the night. 3. The next day he dressed her in seven garments and brought her out to be sold. 4. An exceptionally ugly man approached and said to him, "Show me her beauty." 	<ol style="list-style-type: none"> 1. אמר ריש לקיש : מעשה באשה אחת וצפנת בת פניאל שמה, צפנת - שהכל צופין ביופיה, בת פניאל - בתו של כהן גדול ששימש לפני ולפנים, 2. שנתעלל בה שבאי כל הלילה. 3. למחר הלבשה שבעה חלוקים והוציאה למוכרה.
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<p>5. The captor replied, "Fool! If you wish to buy her, then buy her, for there is no woman as beautiful as she in the entire world."</p> <p>6. He answered, "Even so, I wish to see her."</p> <p>7. He removed six of her garments.</p> <p>8. She tore away the seventh, and threw herself into the dust and ashes.</p> <p>9. She cried out before the Holy One: "Master of the Universe! If You have not had mercy upon us, why do You not have mercy upon the sanctity of Your mighty Name?"</p> <p>10. Concerning her, Jeremiah lamented: "O daughter of My people, gird yourself with sackcloth and roll in ashes; mourn as for an only child, with bitter lamentation, for suddenly the destroyer shall come upon us" (Jeremiah 6: 26).</p> <p>11. The Gemara notes: the verse does not say <i>'upon you'</i> but rather <i>'upon us.'</i> As it were, the destroyer has come not only upon Israel, but upon both Me and you.</p>	<p>4. בא אדם אחד שהיה מכוער ביותר, אמר לו: הראני את יופיה,</p> <p>5. אמר לו: ריקא! אם אתה רוצה ליקח קח, שאין כיופיה בכל העולם כולו,</p> <p>6. אמר לו: אף על פי כן.</p> <p>7. הפשיטה ששה חלוקים,</p> <p>8. ושביעי קרעתה ונתפלשה באפר,</p> <p>9. אמרה לפניו: רבונו של עולם, אם עלינו לא חסת, על קדושת שמך הגבור למה לא תחוס?</p> <p>10. ועליה קונן ירמיה: בת עמי חגרי שק והתפלשי באפר אבל יחיד עשי לך מספד תמרורים כי פתאום יבא השודד עלינו,</p> <p>11. עליך לא נאמר אלא עלינו, כביכול, עלי ועליך בא שודד.</p>
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Section II : The Emergence of Pidyon Shevuyim as a Supreme Mitzvah

VII) Rambam, Hilkhhot Matanot Aniyim 8: 10

<p>1. Redeeming captives takes precedence over supporting the poor and providing them with clothing.</p> <p>2. There is no greater mitzvah than the redemption of captives, for a captive suffers hunger, thirst, and nakedness, and stands in constant danger of death.</p> <p>3. One who turns a blind eye to the redemption of a captive transgresses the prohibitions: "You shall not harden your heart," "You shall not shut your hand," "You shall not stand idly by the blood of your fellow," and "He shall not rule over him with crushing labor before your eyes." He also neglects the positive commandments: "You shall surely open your hand to him," "And your brother shall live with you," "You shall love your fellow as yourself," And "Rescue those being taken to death," as well as many other similar obligations.</p> <p>4. There is no mitzvah greater than the redemption of captives.</p>	<p>1. פדיון שבויים קודם לפרנסת עניים ולכסותן,</p> <p>2. ואין לך מצוה גדולה כפדיון שבויים שהשבוי הרי הוא בכלל הרעבים והצמאים והערומים ועומד בסכנת נפשות,</p> <p>3. והמעלים עיניו מפדיונו הרי זה עובר על לא תאמץ את לבבך ולא תקפוץ את ירך ועל לא תעמוד על דם רעך ועל לא ירדנו בפרך לעיניך, ובטל מצות פתח תפתח את ירך לו, ומצות וחי אחיך עמך, ואהבת לרעך כמוך, והצל לקוחים למות והרבה דברים כאלו,</p> <p>4. ואין לך מצוה רבה כפדיון שבויים.</p>
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VIII) Mishna Shekalim 2, 5

<p>Excess funds collected for the poor belong to the poor.</p> <p>Excess funds collected for a particular poor person belong to that specific poor person.</p> <p>Excess funds collected for captives must be used for other captives.</p> <p>Excess funds collected for a particular captive belong to that captive.</p> <p>Excess funds collected for the burial of the dead must be used for other deceased persons.</p> <p>Excess funds collected for a particular</p>	<p>מותר עניים לעניים מותר עני לאותו עני מותר שבויים לשבויים מותר שבוי לאותו שבוי מותר המתים למתים מותר המת ליורשיו</p>
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IX) Rambam, Hilkhot Matanot Aniyim 8: 11

<ol style="list-style-type: none"> 1. If the residents of a city collected money for the construction of a synagogue and a pressing mitzvah obligation subsequently arose, they may redirect those funds to that mitzvah. If, however, they have already purchased stones and beams for the synagogue, they may not sell them for another mitzvah purpose except for the redemption of captives. 2. Even if the stones have been delivered and arranged, the beams shaped and prepared, and everything made ready for construction, all of it may still be sold—but only for the redemption of captives. 3. Once the synagogue has actually been built and completed, however, it may not be sold for this purpose. Instead, funds for redeeming the captives must be raised separately from the community. 	<ol style="list-style-type: none"> 1. אנשי העיר שגבו מעות לבנין בית הכנסת ובא להן דבר מצוה מוציאין בו המעות, קנו אבנים וקורות לא ימכרום לדבר מצוה אלא לפדיון שבויים, 2. אף על פי שהביאו את האבנים וגדרום ואת הקורות ופסלום והתקינו הכל לבנין מוכרין הכל לפדיון שבויים בלבד, 3. אבל אם בנו וגמרו לא ימכרו את בית הכנסת אלא יגבו לפדיון מן הצבור.
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X) Letter of the Karaite elders of Ascalon

We thank the Most High who gave us the opportunity of fulfilling this pious deed, and granted to you to take a share in it with us. We spent the money for the ransom of some of the captives, after due consideration of the instructions contained in your letter, that is, we send what was available to those who [had already been ransomed(?)]...

News still reaches us that among those who were redeemed from the Franks and remained in Ascalon, some are in danger of dying of want. Others remained in captivity, and yet others were killed before the eyes of the rest, who themselves were killed afterwards with all manner of tortures; [for the enemy murdered them] in order to give vent to his anger on them. We did not hear of a single man of Israel who was in such plight without exerting ourselves to do all that was in our power to save him. The Most High has granted opportunities of relief and deliverance to individual fugitives, of which the first and most perfect instance—after the compassion of Heaven—has been the presence in Ascalon of the honourable shaykh 'Abu' I-Fadl Sahl son of Yusha' son of Shay'a (may God preserve him), an agent of the Sultan (may God bestow glory upon his victories), whose influence is great in Alexandria where his word is very much heeded. He arranged matters wisely and took great pain in securing the ransom; but it would require a lengthy discourse to explain how he did it. But he could only ransom some of the people and had to leave the others. In the end, all those who could be ransomed from them [the Franks] were liberated, and only a few whom they kept remained in their hands, including a boy of about eight years of age, and a man, known as [?] the son of the Tustari's wife. It is reported that the Franks urged the latter to embrace the Christian faith of his own free will and promised to treat him well, but he told them, how could he become a Christian priest and be left in peace by them [the Jews], who had disbursed on his behalf a great sum. Until this day these captives remain in their [Franks'] hands; as well as those who were taken to Antioch, but these are few, and not counting those who abjured their faith because they lost patience as it was not possible to ransom them, and because they despaired of being permitted to go free.

We were not informed, praise be to the Most High, that the accursed ones who are called 'Ashkenazim (Germans) violated or raped women, as did the others.

Now, among those who have reached safety are some who escaped on the second and third days following the battle and left with the governor who was granted safe conduct; and others who, after having been caught by the Franks, remained in their hands for some time and escaped in the end; these are but few. The majority consists of those who were ransomed. To our sorrow, some of them ended their lives under all kinds of suffering and affliction....

Section III : Communal limitations

XI) Mishnah Gittin 4:6

Captives are not redeemed for more than their value, for the sake of the proper ordering of society. אין פודין את השבויים יתר על כדי דמיהן מפני תיקון העולם.

XII) Bavli Gittin 45a

<ol style="list-style-type: none">1. The Gemara asks: Is the enactment that captives may not be redeemed for more than their value instituted in order to prevent excessive financial burden upon the community, or in order to discourage captors from abducting additional Jews?2. Come and hear: Levi bar Darga redeemed his daughter for thirteen thousand gold dinars.3. Abaye responded: Who is to say that he acted in accordance with the will of the Sages? Perhaps he acted contrary to their ruling.	<ol style="list-style-type: none">1. איבעיא להו : האי מפני תיקון העולם - משום דוחקא דצבורא הוא, או דילמא משום דלא לגרבו ולייתו טפי?2. ת"ש : דלוי בר דרגא פרקא לברתיה בתליסר אלפי דינרי זהב.3. אמר אביי : ומאן לימא לן דברצון חכמים עבד? דילמא שלא ברצון חכמים עבד.
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XIII) Rabbi Shaul Yisraeli, Amud Ha Yemini, no. 16.

From this perspective, it would appear that we must understand the State's obligation regarding prisoners of war in the following way. Since these soldiers went out to battle as agents of the state and on its behalf, in order to defend the Jewish community in the Land of Israel, there exists an implicit—though self-evident—commitment that the state must do whatever is within its power (within reasonable limits that do not compromise overall national security) to secure their release should they fall into captivity.

Just as the state has an obligation to provide for their medical treatment and rehabilitation in the event of injury or disability, and to care for their families in the event, God forbid, that they are killed in battle, so too it bears an obligation to take every possible action to bring about their release from captivity.

Since whatever the state does in this regard derives from an obligation that it has undertaken in exchange for their service, it is as though the soldiers are redeeming themselves. In such a case, as explained above, there is no limitation, and therefore the enactment that "captives may not be redeemed for more than their value" does not apply.