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The Israel-Hamas Prisoner Exchange: From Tactical Failure to Strategic Challenge

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A rational analysis of the agreement signed between Israel and Hamas for the release of Gilad Shalit is best conducted far from the abundant rhetoric, touching photographs, and strong emotions that accompanied the extensive journalistic coverage of the event. In the course of this media event, platitudes and clichés of questionable accuracy were bandied about relentlessly.

Above all, the agreement, known commonly as the “Shalit deal,” is more appropriately called the “Netanyahu deal,” or even the “Netanyahu government deal.” This distinction is important for a number of reasons. One, the deal was signed by a pronounced right wing government, which includes among its ministers the most hawkish of Israeli politicians, such as Avigdor Lieberman, Moshe (Bogey) Yaalon, Uzi Landau, Benny Begin (who voted in favor of the deal), and others. Even the ministers who voted against the deal and did not resign in protest immediately afterward share full responsibility for the outcome. In the future they will not be able to sidestep it and place the onus at the Prime Minister’s doorstep.

Netanyahu himself, who for over two years avoided making that “bold leadership decision” and whom many sought to glorify on this occasion, was traditionally among those who preached against all deals that were “a capitulation to terrorism,” as exemplified by the notorious Jibril deal. It is clear that were Netanyahu and many of his government ministers free of their authority and position they would have been the first to denounce the present deal as a shameful capitulation to terrorism.

Two, it is important to remember the exclusive responsibility of the Netanyahu government for the agreement, in order to quash the highly objectionable attempt, launched even before the deal was signed, to hold the Shalit family accountable for any future fatal outcomes from the agreement freeing their son.

The outburst of collective joy, the sense of euphoria, and the rare expressions of national solidarity cutting across sectors and rising above political divisions cannot hide the fact that in essence the agreement with Hamas does not spell a great achievement for Israel. The deal cost Israel dearly, with the primary damage more in the symbolic and emotional realms, which should not be dismissed out of hand, and less in unreasonable security risks. This cost was forced on Israel, due to the failure in preventing the abduction of the soldier and the failure to rescue him, and due to the circumstances of the negotiations – negotiations with a sub-state entity having a loose hierarchy and diametrically opposed points of view within the leadership that was holding Shalit hostage amid a crowded civilian population in enemy territory.

In face of the obvious concern felt in Israel given the release of so many Palestinian prisoners who were involved in murderous terrorist attacks, and in light of the threats batted about regarding the certain horrific consequences of the agreement to the security of the Israeli population, it is worth presenting the highlights of the agreement and assessing the risks.

In the context of the deal, Israel agreed to release an unprecedentedly high number of murderers, some serving one or more life sentences in prison. Israel also agreed to release Israeli Arab citizens, despite the state's longstanding principle that the subject is non-negotiable. Furthermore, the deal also freed several East Jerusalem Arabs who hold Israeli ID cards. Some 120 convicted security prisoners were released to their homes in the West Bank and East Jerusalem. Some of the released are older and have spent long periods of time in prison; even if they rejoin their various organizations it is unclear if they will ever be directly involved again in terrorist activity. Nevertheless, it is reasonable to assume that among those released there will be some who will be willing and even volunteer in their organizations to act on behalf of freeing those still behind bars.

More than two hundred of the released prisoners were expelled to the Gaza Strip or abroad. In Palestinian society, exile is considered less serious only than a death sentence or continued imprisonment because it cuts the prisoner off from his or her family, friends, and immediate surroundings, and of course, represents a symbolic and moral strike against the ethos of return, which plays an important role in the Palestinian narrative. The release of about half the prisoners to the Gaza Strip greatly blunts the direct risk they ostensible represent, because despite the knowledge and deep familiarity with Israeli society and its weaknesses obtained by the elders among the group, this risk melds with the threat already present to Israel from terrorist organizations active there. This is true also of the relatively few prisoners who were released to their homes in the West Bank, because they will be both under the supervision of the PA and also not far from the long reach of Israel's arm should they once again engage in terrorist activities.

The primary danger of the agreement thus does not lie in irreparable damage to Israel's overall deterrence or in uncontrollable future escalation of attacks against Israelis. Rather, the danger lies in the lessons the Palestinians have learned regarding the agreement's costs and weaknesses and the way in which it was brokered. Therefore it seems that more than we can expect a renewed outbreak of terrorism led by the prisoners released by the Netanyahu deal, we can expect Palestinian terrorist organizations – and perhaps other elements – to focus their efforts on attempts to abduct Israelis, soldiers and civilians alike. What were seen in Israel as inflammatory statements by Hamas leaders and even PA President Abu Mazen that the next people to be released from Israeli prisons by means of abduction will be Hassan Salama, Abbas Sayed, Abdullah Barghouti, Ibrahim Hamad, and Marwan Barghouti, may turn out to be permanent instructions for action whose results Israel will have to confront with all its might.

It appears that the expectations of many in Israel that efforts to draft government policy or even Knesset legislation on the red lines Israel may not cross in paying a disproportional price in exchange for the release of Israeli victims of abduction, as the Shamgar Commission is likely to recommend, are liable to be frustrated. The only clear lesson of the hawkish government, and especially in view of the Prime Minister's principles on the issue, is that faced with extortion and the absence of alternatives to negotiations, red lines do not last long in Israeli society unless the latter drastically changes its nature or values.

One way or another, this issue will most likely remain at the center of a searching public debate in the days to come. At the same time, Israel will need all the creativity, daring, and determination it possesses in order to find the appropriate response to a challenge it will have to face again, possibly even in the near future.

