Redemption of Captives/ Freeing of Hostages:

Classic Sources and Their Contemporary Applications

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The mass abduction by Hamas of 251 Israelis, along with their massacre of 1,139 other civilians, soldiers and foreign nationals on October 7, 2023 brought the topic of kidnapping to the center of public discourse in Israel.[1] People with varying political and social agendas have cited halakhic sources to justify their claims, whether to facilitate the hostages' release at any cost or to refuse to release convicted terrorists in exchange for their freedom and continue the war with Hamas even if it means the hostages are likely to die. This article will examine the classic sources in their original contexts, clarify the principles and assumptions that underpin their rulings, and apply them to today's reality.[2] While we express our opinions, we attempt to differentiate between sources and our *ḥidushim*. In the tradition of Beit Hillel, we give voice to opposing views in order to give the reader a clearer understanding of the topic.

There is No Greater Mitzvah than Redeeming Captives

Classic Jewish sources see *pidyon shevuyyim*, or the redeeming of captives, as an essential responsibility of individuals and communities. Maimonides

[1] Kidnapping has also taken place in other lands, including medieval Europe and Egypt, whether for economic motives, religious conversion, political pressure, or antisemitic motives. See, for example, Minna Rozen, *The Mediterranean in the Seventeenth Century: Captives, Pirates and Ransomers*, Quaderni Mediterranea 32, http://minnarozen.co.il/documents/Quaderno_32.pdf and https://dokumen.pub/the-jews-in-medieval-egypt-9781618117489.html.

[2] This article is based on traditional sources cited by Moti Kaplan, "'Eit pidyon shevuyyim," *Yashar* (October 16, 2023), https://www.yashar-magazine.co.il/post/עת-פדיון-שבויים, written on October 8th and later translated into English with significant changes in the structure and the flow of the argument, as well as added and omitted sources, as "Time to Redeem the Captives," *Yashar*, https://www.yashar-magazine.co.il/post/time-to-redeem-the-captives. All translations, including of classical texts, are the authors' unless otherwise noted.

is most emphatic about including it in his halakhic discussion of the biblical mitzvot. The only reason it is not listed as one of the 613 mitzvot is because it encapsulates *several* biblical commandments. **"There is no greater mitzvah than redeeming captives,"** writes Maimonides (in the sense that it includes many other mitzvot).

> Redeeming captives takes precedence over feeding the poor and clothing them, **since the captive is included among the hungry, thirsty, and naked and is in mortal danger**. And one who averts his eyes from redeeming them transgresses "do not harden your heart or shut your hand," and "do not stand idly by the blood of your neighbor"...and nullifies the commandments: "You shall surely revive your brother"..."You shall love your neighbor as yourself," and many similar precepts (Maimonides, *Mishneh Torah*, Gifts to the Poor 8:10).

The main rabbinic discussion is found in the Babylonian Talmud, which interprets the words of the prophet Jeremiah:

> "Thus says the Lord: He who is for the sword, to the sword; he who is for famine, to the famine; and he who is for captivity, to captivity," and Rabbi Yochanan said… The sword is more severe than death… famine is more severe than the sword… but captivity is more severe than all of them, as they all are encompassed within it (b. Bava Batra 8b).

The Shulchan Arukh confirms:

> The redeeming of captives takes precedence to sustaining the poor and clothing them. And there is no mitzvah as great as redeeming captives. Therefore, if one has designated money for any [other] mitzvah, they can redirect it to redeeming captives.... Every moment that one delays in redeeming captives, when it is possible to expedite, it is considered as if one has shed blood (Shulchan Arukh, Yoreh Deʿah 252:1–3).

Captives Are Not Redeemed for More than Their Value

While the sages' overall commitment to the mitzvah is clear, there is discussion and debate around the cost the community should—or may—bear to redeem captives.

> The captives are not redeemed for more than their actual monetary value, *mipnei tiqqun haʿolam* [possibly translated as "for the betterment of the world"]; and one may not aid the captives in their attempt to escape from their captors *mipnei tiqqun haʿolam* [probably so that kidnappers will not be more restrictive with their captives to prevent them from escaping]. Rabban Shimon ben Gamliel says: For the betterment of the captives [presumably so that kidnappers will not avenge the escape of the captives by treating other captives with cruelty] (m. Gittin 4:6).

The sages are divided over the meaning of *tiqqun haʿolam* in this mishnah (b. Gittin 45a; see also Rashi).

The Gemara discusses whether the Mishnah is concerned with burdening the community with heavy financial obligations and implies that individuals with sufficient funds are permitted to redeem themselves or others at any cost. It also seeks to prevent giving rogues an incentive for future abductions and implies that paying a high price is not acceptable even when the means are available.[3]

> **A dilemma was raised before** the Sages: With regard to **this** expression: **For the betterment of the world,** is **it due to the** financial **pressure of the community?** Is the concern that the increase in price will lead to the community assuming financial pressures it will not be able to manage? **Or perhaps** it is **because** the result of this will be **that they will not seize and bring additional** captives, as they will see that it is not worthwhile for them to take Jews captive? The Gemara suggests: **Come** and **hear** an answer based on the fact **that Levi bar Darga redeemed his daughter** who

[3] Maimonides adopts the second view: "We do not redeem captives for more than their value *mipnei tiqqun haʿolam*, lest the enemies pursue them to capture them" (*Mishneh Torah*, Gifts to the Poor 8:12).

> was taken captive **with thirteen thousand gold dinars.**
>
> Abaye said: And who told us that he acted in accordance with the wishes of the Sages? Perhaps he acted against the wishes of the Sages, and this anecdote cannot serve as a proof (b. Gittin 45a).[4]

The story seems to indicate that private citizens may pay excessive sums to redeem a captive if they so choose. Therefore, it must be that the reason for the ordinance was to avoid an excessive burden being placed upon the community. On the other hand, if the ordinance was instituted to remove the incentive for kidnappers to capture Jews, a private citizen would also not be permitted to pay an excessive sum.

While the gemara is inconclusive in this sugya, several pages later it introduces the concept of *piquaḥ nefesh:* when life is in danger and, there is room to argue, also even when hostages face physical danger that is not life-threatening, loss of dignity, or emotional suffering, the community may pay a higher price.

Risking the Lives of Captives

The sages are divided on the matter of ransoming captives whose lives are in danger. Some argue that even in this situation it is inappropriate to redeem captives for more than their value, since this would encourage the captors to continue kidnapping, which would endanger the wider community. Others contend that in the face of a threat to life it is proper to redeem captives at any financial cost, even if this poses a risk to future lives. The Babylonian Talmud illustrates the importance of *piquaḥ nefesh* with the following story:

> The sages taught: There was an incident with Rabbi Yehoshua ben Hananiah who traveled to the city of Rome. He was informed: There is a child[5] in prison, very handsome, with beautiful eyes, and his hair is arranged in braids. Rabbi Yehoshua stood at the entrance to the prison and asked, "Who caused Jacob to be despoiled and Israel to be robbed?" (Isaiah 42:24). The child answered, "Was it not

[4] Koren-Steinsaltz William Davidson edition, Sefaria.org. The words in bold are the actual words in the Gemara, and the other words are added in order to clarify its meaning.

[5] The Hebrew is *tinoq*. Translations of the Babylonian Talmud into modern Hebrew often misinterpret this word because they use its modern Hebrew meaning ("baby"), although the context here makes clear that it means "child," a common rabbinic use of the word.

> the Lord? We sinned against Him…and did not heed His Torah." Rabbi Yehoshua said, "I trust that this child will issue rulings to the people of Israel." He swore an oath that he would not leave there until he had redeemed him for any amount the captors demanded. It was said: He did not move from there until he ransomed him for a large sum" (b. Gittin 58a).[6]

In the rabbinic context, the value of a captive was determined according to what each person would be sold for as a slave on the market based on age, health, and potential for work. It was a purely economic analysis and did not take into account the impact of the captive's loss to friends, family, and the community.

One explanation is that Rabbi Yehoshua was trying to raise the value of the boy by showing that he would be a future scholar and teacher of many (*gadol baTorah*). This reading formally respects the rule but changes the facts and assessment of the boy's worth. Another possible understanding is that the boy was in danger of sexual abuse. Why else would the Talmud mention his beauty? It was widely known that Roman culture encouraged pedophilia, and the atmosphere in a Roman prison was dangerous.[7]

The Tosafot on Gittin 58a hasten to explain what allowed Rabbi Yehoshua to seemingly override the ruling of the sages not to ransom captives for a large sum:

> "**for whatever** amount of **money that they demand**." He was legally allowed to do this because where **there is a threat to life, we redeem the captives for more than their value**. This is like what **we say in Chapter "Hasholeach"** (above, page 47a) **about one who sells themselves and their children to idol-worshippers**, and this is true **a fortiori here where there is a murderer. Alternatively**, he was allowed to redeem the child for more than his worth **because** he possessed **great wisdom** (Tosafot to Gittin 58a)[8].

[6] Koren-Steinsaltz William Davidson edition, Sefaria.org. The words in bold are the actual words in the Gemara, and the other words are added in order to clarify its meaning.

[7] See also the story of how Rabbi Meir went to great lengths, risking temptation and censure, to rescue his sister in law from a Roman brothel, in b. Avodah Zarah 18a-b.

[8] Sefaria Community Translation. The words in bold are the actual words in the Tosafot, and the other words are added in order to clarify its meaning.

Presumably the community agreed and followed Rabbi Yehoshua's judgment.

In the situation involving hostages taken by Hamas, where rape, posthumous rape, gang rape, and other unnamable offenses are daily occurrences, this talmudic story is a powerful precedent for immediate and intensive efforts to redeem all the captives, starting with teens, children, and women.

Piquaḥ nefesh was so important to the sages that they introduced an additional aspect of how to redeem captives. The Mishnah states: "**and one may not aid the captives** in their attempt to **escape**, *mipnei tiqqun haʿolam*." In other words, we do not try to use heroic measures to rescue the hostage. The details of this additional provision regarding facilitation of escape deserve exploration in a separate article. Suffice it to say that we have seen the danger to soldiers and hostages alike involved in heroic rescue efforts in the current war. Success is far from guaranteed, and further loss of life may occur. Negotiation is therefore the preferred method.

Redemption of Hostages as a Spiritual Imperative

To compete our survey of the classical sources, an incident involving Rabbi Pinḥas ben Ya'ir suggests that the redemption of captives is so important that even the laws of nature should be overturned in order to accomplish it:

> It is based on the incident **where Rabbi Pineḥas ben Ya'ir was going to** engage in **the redemption of captives**, and **he encountered the Ginai River. He said to** the river: **Ginai, part your water for me and I will pass through you**. The river **said to him: You are going to perform the will of your Maker and I am going to perform the will of my Maker**, to flow in my path. With regard to you, it is uncertain whether you will **perform** His will successfully, **and** it is **uncertain** whether **you** will **not perform** His will successfully. **I** will **certainly perform** His will successfully. Rabbi Pineḥas ben Ya'ir **said to** the river: **If you do not part, I** will **decree upon you that water will never flow through you**. The river **parted for him**. There **was a certain man who was carrying wheat** for the preparation of *matza* **for Passover**. Rabbi Pineḥas ben Ya'ir **said to** the river: **Part** your waters **for that** person **too, as he is engaged in** the performance of a **mitzva**. The

> river **parted for him**. There **was a certain Arab [*taya'a*] who was accompanying them**. Rabbi Pineḥas ben Ya'ir **said to** the river: **Part** your waters **for that** person **too, so that he will not say: Is that** what **one does to a person who accompanies** him? The river **parted for him. Rav Yosef said: How great is this man**, Rabbi Pineḥas ben Ya'ir, greater **than Moses and** the **six hundred thousand** who left Egypt, **as there,** at the Red Sea, the waters parted **one time, and here** the waters parted **three times.** The Gemara asks: **And perhaps here too,** the waters parted **one time,** and the river began to flow again only after all three of them passed. **Rather,** this man was as great **as Moses and** the **six hundred thousand** children of Israel (b. Hullin 7a:10–11).[9]

In splitting a river to save the life of one captive, Rabbi Pinḥas ben Ya'ir is compared to the greatest Jewish leader, who split the Red Sea and thereby saved the entire Israelite people. This is a powerful statement of the importance of redeeming captives in rabbinic law and lore.

Then and Now: How Do the Sources Apply Today?

How can we apply precedents and principles in the traditional sources to the ethical discussion concerning the 251 Israeli and foreign men, women, and children kidnapped by Hamas on October 7, 2023, particularly the question of how Israel should negotiate for the release of the ones who remain alive and captive in Gaza? How should these precedents and principles influence our thinking about Hamas's proposed deal, which would likely mean Israel agreeing both to release over one thousand Hamas supporters, many of them convicted terrorists who will likely attempt to organize future attacks against Israel and to stop the war in Gaza in return for releasing the hostages who remain alive?

The rabbinic sources were written in a specific historical context. Captors were usually individuals or groups whose aim was financial gain. The redeemer was an individual or generally a small Jewish community. And the captives were usually individuals or small groups. Today's reality is quite

[9] Koren-Steinsaltz William Davidson edition, Sefaria.org. The words in bold are the actual words in the Gemara, and the other words are added in order to clarify its meaning.

different: The perpetrator is highly organized, has clear political and military goals and the resources to achieve them, and is willing to use force, psychological warfare, or violence for the sake of harming the captives and their redeemers. The potential redeemer is the State of Israel, with its attendant financial, military, social, and other resources to pay for captives and protect its citizens in the future. The perpetrators kidnapped 251 people, a large group of whom remain alive in Gaza, along with the bodies of others who are deceased. Furthermore, the entire country is invested in the outcome of the war.

These differences lead to important conclusions. In each section, we will present the arguments of those who cite "we do not redeem captives for more than their worth" either without regard to the differences in circumstance, or with the goal of relating to the circumstances from a different perspective. After we present these arguments, we will make a case that current circumstances *do* change the calculation of worth and warrant extreme efforts to release the hostages. If our conclusion differs from legalistic precedents, which, we will show, are often taken out of context, we see it as an authentic expression of the spirit of the law and core Jewish values.

The deals on the table have involved two main parts: ending the war and releasing between seven hundred and thousands of Palestinian prisoners, mostly convicted terrorists, approximately ten prisoners for every one remaining hostage. The following sections pertain to today's situation:

The Perpetrator is a Paranational Group with Military and Political rather than Economic Motives

Those who prioritize continuing the war and do not want to pay a high price to redeem the hostages are mostly on the right of the political spectrum. For them, ending the war would be a tactical and strategic mistake; it would allow Hamas to declare victory, regroup, retrain, remain in power, and plan its next attack. It would mean that lives of all the soldiers killed so far will have been lost in vain, and it would show Israel to be weak and easily manipulated. Those who adopt this line of thought also take into account the future harm that released prisoners may cause, which in their view makes the cost too high. Previous experience with terrorists released in the Gilad Shalit exchange in 2011—in which 1,027 mostly political prisoners were released in exchange for Shalit—as well as the testimony of Hamas activists themselves tells us that they will seek to kidnap, kill, or otherwise harm

many more Israelis in future.

Those who prioritize bringing the hostages home focus on what they regard as an extremely significant fact, namely, that the captors are a military organization whose charter calls for the elimination of Israel. This adds to the weight and urgency of the *piquaḥ nefesh* consideration. When an abduction is driven by financial motives, the kidnapper might simply abandon the person if their community does not pay the ransom. In this context, a hostage's life is not usually in danger. But that is not the situation here. Hamas has kept the abducted captive for months, in underground tunnels or in homes of terrorists in Gaza. News footage, testimony by the few released captives, and eyewitness accounts by Israeli soldiers report that the hostages suffer daily torment, suffering, and humiliation, including being deprived of food, sleep, light, and fresh air; being told that no one cares about them or is going to rescue them; and beating, rape, and other sexual abuse of both female and male hostages. Hamas would have no qualms about killing hostages if they are no longer useful as deterrents to IDF invasions. Indeed, they already have killed some hostages and nearly 1,500 other Israelis.

The impact on the hostages if they remain in captivity is thus certain. Continuous torment and suffering await them, and many of them will not survive. By contrast, the security implications of agreeing to the demands for returning terrorists—paying ransom and delaying military action, which may encourage the terrorists to attack us again—are only possibilities, even if experience tells us that Hamas is likely to attempt them. If the Israeli government and all who are committed to Israel's security are wise enough to stand guard and not to be complacent, then neither this great evil (the suffering of the hostages) nor any other evil, such as repeated terror attacks, will befall us.

In addition, like other groups whose goal is the destruction of Israel or the harming of Jews worldwide, Hamas needs no encouragement. They will seek every opportunity to attack us in myriad ways, if God forbid, we do not stand our guard, whether or not we secure the release of these hostages. As Rabbi Ovadiah Yosef wrote, possibly in the context of the Entebbe kidnapping:

> Most rabbinic authorities are of the opinion that in a situation of danger, we do redeem captives for "more than their value," and we have not found among the great rabbinic

> authorities anyone who says the opposite. It seems that actually this is the course that we are compelled to take.... And even when the ransom exceeds their value, and there is a concern that they will further raise the [ransom] fee, despite this, when there is an immediate danger, we do not take that into account, because in any case, they will do everything in their power to kidnap, kill, and murder in order to disrupt the ordinary course of life in the State of Israel (Yabia Omer part 10, chapter 6, section 6).

The innovation in Rabbi Ovadiah's statement applies in our current situation as well. These murderers need neither encouragement nor incentive; rather, they do everything to sow death and destruction. If we show special concern for our hostages, it makes no difference to their kidnappers. Nevertheless, it must be acknowledged that this situation is not straightforward. Ignoring the fact that yielding to the terrorists' demands validates the effectiveness of kidnapping, it is presumable that Hamas followers would perceive this as a national victory. It is hard to bear the fact that securing the release of the hostages (essentially saving lives) involves political and security considerations that have consequences for the general public. Yet it is also hard to bear the possibility that the country might not redeem any one of us, were we held hostage. Either way, the only means to prevent this dilemma in the future are vigilance, fortitude, and continuous defensive and proactive measures to protect our citizens. In cases of danger to life—or, one might argue, even to human dignity—the principle of *piquaḥ nefesh* tips the balance in favor of redeeming the captives, even at a higher cost, and even despite concern about the possible future security of soldiers and citizens.

Israel is a State

Those who prioritize continuing the war and do not want to pay a high price to redeem the hostages argue that it would be foolish to accept Hamas's terms. The whole country's morale would be harmed if we are perceived to lose the negotiation. The national honor would also suffer. These considerations must be added to the total cost, rendering the negotiation prohibitive.

By contrast, those who prioritize bringing the hostages home focus on the fact that Israel is an independent state with financial resources, an army, and extensive intelligence capabilities. These assets mean that we should

be able to protect ourselves in the future. The argument that paying a high price will encourage future kidnappings is therefore not enough to warrant letting the hostages die in captivity.

In historic cases when it was only a matter of financial interest, the hostage might have been able to negotiate directly with the captors or somehow get word to the community via the captors that he was willing to participate in the cost. But today, when the hostages are political pawns, stuck in tunnels with no means of communication and usually no common language, and when the captors want not money but political goals, the captives do not have the power at their disposal to give the captors what they want, so it is not a parallel situation, and the topic cannot be something that applies only in the past. It only makes sense as part of the historical background. We saw in b. Gittin that there may be room for a captive to pay a price exceeding his objective value in order to redeem himself. Many legal authorities believe that even when it concerns a demand for payment exceeding the captive's own value, abductees are authorized to pay from their private funds in exchange for their release. This position is of significant consequence concerning the obligation and capacity of the state to redeem hostages, as Rabbi Shaul Israeli taught:

> Since our soldiers went to war on a mission on behalf of the state, for the defense of the people…there exists an implicit, unwritten, but self-evident commitment, that any means at the state's disposal must be taken to redeem them if they fall captive. Just as there is an obligation in the event of their injury, God forbid, in war, there is no less an obligation to take any action aimed at their release.... And since the power invested in the state in this regard is by virtue of the obligation it has undertaken in return for their service, it is as if the hostages were redeeming themselves, in which case no restriction exists, and the provision that "we do not redeem the captives for more than their value" is not relevant (*Havat Binyamin*, part 1, 16).

The fact that Israel is a state adds additional factors to the cost analysis. Israel encouraged settlement of the borders and drafted the soldiers who were exposed to danger in October.

Individual Abduction versus Mass Abduction

Those who prioritize continuing the war and do not want to pay a high price to redeem the hostages could potentially say it is not a large enough group to warrant endangering the rest of the country. (We are not familiar with arguments that use the large number of hostages as a reason to continue the war.) By contrast, when those who prioritize bringing the hostages home discuss the parameters of redeeming captives, they seem to focus on a single captive or a few captives.[10] In the current situation, a large group—men, women, and children, including some who are elderly, sick, injured, or wounded and people who are in mortal danger—are at risk. This is not a matter of private versus public interest, as might occur in the case of an individual captive, where a private interest might clash with the economic well-being or security of the general public. In our situation, two public interests are competing with each other. The imperative to redeem captives seems even stronger in this case, given that they are in serious danger and that they are a large group of people. The hostages have become a national symbol of mutual caring and interconnection. To continue our lives, going to cafés and to work, while they languish in tunnels without sunshine or fresh air, terrified of ongoing physical, emotional, and mental degradation and fear that each day will be their last, is to harden our hearts. The sheer number of hostages tips the scales even more toward compelling the government to act—and act quickly.

Social Implications of Freeing the Hostages

If Israel does not place redeeming the hostages as the highest priority, and especially if they die in captivity, it will impact the morale of the country, including relatives and friends of hostages, soldiers, and other implicated parties. These factors are hard to quantify but are significant and ought to be taken into account as we calculate the value of the the hostages in negotiation for a deal. They are already having negative effects, including loss of faith in Israel to protect its citizens, loss of the willingness to serve, and loss of interest in living near the borders. The cost is immeasurable, and even though other groups in the country argue that, on the contrary, morale would be damaged by ceding to Hamas and ending the war before

[10] A notable medieval exception was Don Yitzhak Abarbanel, who redeemed approximately two hundred Jewish captives taken in the siege of Arzila, Morocco using personal funds and funds collected from the Portuguese Jewish community.

the job is finished, we consider it a moral imperative to save the hostages. Furthermore, "the impact on the morale of the army could be significant. Once a soldier knows that [the state] is not committed to doing everything in its ability to free him—including being prepared to release murderers in exchange for his freedom—his motivation to fight in the service of his country will be reduced" (Rabbi Yuval Sherlow, Jewish Ethics (25): Redeeming Captives). We would also argue that the concept of value should include future contributions that the hostages will make to the world if they are saved, a in the story of Rabbi Yehoshua ben Hananiah and his rationale of *gadol baTorah* to save the young boy from prison in Rome.

We can also take into account the cost to the families of this extended agony. They feel abandoned and in limbo. Some seem even to have died from the pain and anxiety. Never in previous experience was there a situation in which thousands of people—brothers sisters, parents, children, colleagues, friends—experience daily dread that they might hear that their loved one has been killed, and worry about his or her treatment at the hands of people who do not respect basic human mores, much less international law. It is a situation of tremendous *'inui din*, or delayed judgment. While this factor was not taken into account in the past or not expressed because negotiations were more immediate, we consider that the toll on the hostages' families and circles of acquaintance ought to be taken in account when weighing the total price worth paying.

Conclusion

In the Mishnah, the expression *tiqqun ha'olam* refers to the smooth running of society, discouraging highway robbery and roguish kidnappings and is cited as a reason not to pay a high price to redeem captives. In our case, *tiqqun ha'olam* would be served by the exact opposite action, by a supreme effort to negotiate for the group of captives, in hope that the damage to their physical and mental health is not irreparable, and in order to save them from even one more day of suffering. While Jewish law encompasses multiple opinions, the view expressed here is a legitimate, authentic halakhic opinion. The moral compass seems very clear. Every effort should be made to negotiate the release of hostages without delay.[11] There is ample scope in Jewish law, and in basic common sense, to pay a high price for returning

[11] Maimonides adopts the second view: "We do not redeem captives for more than their value *mipnei tiqqun ha'olam*, lest the enemies pursue them to capture them" (*Mishneh Torah*, Gifts to the Poor 8:12).

the hostages, in order to save their lives; avoid future emotional, physical and psychological abuse; and let other soldiers and civilians know that if they are in danger, the country will do its utmost to save them, too, fulfilling the biblical commandments of "loving your neighbor as yourself" and "not standing idly by the blood of your fellow." Halakhah, tradition, and conscience all point to the same conclusion. In cases where the captives' lives are in danger, the principle of *piquaḥ nefesh* tips the balance in favor of redeeming the captives even at a high cost and saving their loved ones from an agonizing, drawn out state of uncertainty, dread and *'inui din*. We recommend that this approach become the mainstream Jewish approach to the question of redemption of political hostages in our times.

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