YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Jewish History**

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**Shiur #06:**

**Maharam of Rothenburg’s Imprisonment**

**1286**

In the year 1286, during his attempt to move to Israel, the Maharam was captured and imprisoned in a castle in Ensisheim. He remained a prisoner for seven years, until his death. Eventually his body was released (after a heavy ransom was paid) and was buried in Worms.

There are several references in his writings, as well as those of his students’, to his imprisonment.[[1]](#footnote-1) One disciple, Rav Meir Ha-kohen,the author of *Hagahot Maimoniyot,* mentions in his writings questions which he referred to his rabbi, indicating that he was able to visit him.[[2]](#footnote-2)

During these years of confinement, Rav Meir worked on a commentary on the Mishna as well as halakhic responsa to questions of the time.

There is a popular claim that the Jewish community raised a large amount of money for his release, but the Maharam refused to allow the ransom to be paid. His concern was that this would encourage the authorities to kidnap other rabbis and leaders of the Jewish community.[[3]](#footnote-3) The source of this claim is Rav Shelomo Luria (1510-1574, Poland):[[4]](#footnote-4)

I heard that the Maharam of Rothenburg was held captive in a tower in Ensisheim for a number of years. The minister demanded from the communities a large sum (to be paid for his release). The communities were willing to pay the ransom, but Rav Meir refused, quoting the rule that captives may not be redeemed at more than their worth.

I am surprised, as it is permitted to redeem him at any cost; he (the Maharam) was a prominent *talmid chakham* and was considered the greatest of his generation in Torah and righteousness. Nevertheless, perhaps he was too humble to consider himself such a great person; still, he should have been concerned about his own *bittul Torah* (wasting time for Torah study), as remaining in captivity affected his Torah learning.

He then goes on to explain that it is clear that Rav Meir thought that if he were to be ransomed at a heavy price, the kidnapping of rabbis would turn into a trend; thus, the entire Torah world would suffer.

The story of his refusal to be redeemed has served as an important source for the many halakhic dilemmas throughout the centuries raised in the cases of Jewish prisoners in similar situations.

**The mitzva of redeeming captives**

The mitzva of redeeming captives is considered a great one, as explained by the Rambam:

The redemption of captives receives priority over sustaining the poor and providing them with clothing. [Indeed,] there is no greater mitzva than the redemption of captives. For a captive is among those who are hungry, thirsty, and unclothed, as well as in mortal peril… There is no mitzva as great as the redemption of captives (*pidyon shevuyim)*.[[5]](#footnote-5)

However, the *mishna* in *Gittin* (4:6) rules that "captives may not be ransomed for more than their value.”

This reason given by the Mishna for this *halakha* is because of *tikkun olam* (the welfare of the world). In other words, we must act responsibly for the entire people of Israel and not necessarily think only about the individual. We must consider the welfare of the community against the welfare of the captive.

The Gemara[[6]](#footnote-6) suggests two possible reasons for this ruling:

1. Preventing a "burden on the community," as collecting large sums of money to free a captive may cause great strain on the entire community.
2. Discouraging extortion, as paying exorbitant sums of money in exchange for captives inevitably encourages more kidnappings.

The Rishonim argue which of the above two reasons is the primary one. Some argue that if the captive in question is in a life-threating situation, then there is no limit to the price we must pay.[[7]](#footnote-7) Should the Mishna’s decree hold up in the face of *pikuach nefesh*? Although the first reason would not withstand the challenge, the second reason might.

Rashi explains that another *nafka mina* is in a case in which the captive has a wealthy relative. In this situation, as the burden does not fall on the community, the only concern is the dangerous precedent this might cause.

**Redeeming a *Talmid Chakham***

The Gemara tells us that Rabbi Yehoshua ben Chananya, while visiting Rome, was introduced to a good-looking Jewish boy in prison.

Rabbi Yehoshua quizzed the boy in his Torah knowledge and realized that the boy was well-acquainted with *Tanakh*. At this point, he exclaimed: “I am certain that this boy will become a rabbi; I will not leave here until I redeem him for whatever price they demand.”

The Gemara concludes the story by informing us that this boy grew up to become the great sage and *kohen gadol*, Rabbi Yishmael ben Elisha. [[8]](#footnote-8)

The obvious question is the following: how does this opinion fit with the rabbinical ruling mentioned above? The Rishonim offer several answers.

One possibility, suggest Tosafot, is that after the destruction of the Temple, many Jews became targets for kidnappings; thus, paying a high ransom would not cause more or less kidnappings to happen.[[9]](#footnote-9)

Another answer, according to Tosafot, is that this story is an exception to the rule, as it is permitted to redeem a *talmid chakham* for more than he is worth. This opinion is brought down in *Shulchan Arukh*.[[10]](#footnote-10)

**Exceptions**

However, this is not the only exception to the Mishna’s rule.

Rav Yosef Karo rules that the prohibition is on the community; however, an individual ransoming himself or his wife may pay any price for their freedom.[[11]](#footnote-11)

**In practice**

In practice, it seems that there is an inconsistency between the Mishna’s rule and the actual practice of ransoming Jewish prisoners

Jewish history is filled with stories of Jews redeeming each other for exorbitant sums of money.

For example, the Gemara mentions that Levi bar Darga ransomed his daughter for the sum of thirteen thousand gold dinars.[[12]](#footnote-12)

During the 15th century, Rav Yitzchak Abarbanel raised a large sum of money to redeem two hundred and fifty Jews who had been taken captive.[[13]](#footnote-13)

During the 18th century, Rav Natan, the great student of Rav Nachman of Breslav, recalled how his rabbi was taken captive and was ransomed by the Rhodes Jewish community.

**Explanations**

Rav Shelomo Luria )16th century) testifies that, in his time, Jews are redeeming Jewish prisoners for far more than they are worth, “since they are willing to overlook the financial burden on the community.”[[14]](#footnote-14)

Similarly, Rav David ibn Zimra, Radbaz (1479-1573) attempts to justify the custom in his time that entirely ignores the Mishna’s ruling. He first testifies that:

The custom of all the Jewish people is to ransom their captives more than their value in the marketplace, for an elderly man or minor are only worth twenty dinars, yet they are redeemed for one hundred dinars or more.

He then explains that the communities rely on several reasons for this lenient practice. Among them is the claim that the kidnappers are not singling out Jews, as they kidnap non-Jews as well. This argument deals with the Gemara’s concern that paying off the kidnappers will increase the number of abductions.[[15]](#footnote-15) He continues to explain that the reasons for the lenient practice to ransom groups of Jewish captives is also based on the existence of *talmidei chakhamim* as well as children who are at risk of being converted.

**The story of Rav Hutner**

A modern case of the abduction of a *gadol* and the halakhic discussion surrounding his release occurred fifty years ago.

In the summer of 1970, Rav Yitzchak Hutner boarded a plane which was hijacked by Palestinian terrorists and forced to land in Jordan.

Basing themselves on the above-mentioned *heter* to redeem a *talmid chakham* at any cost, a group of American Jewish leaders gathered and discussed the possibility of ransoming Rav Hutner.

Rav Yaakov Kamenetsky voiced his opinion that under these circumstances, the *heter* cannot be used. He argued that the hijacking was considered halakhically an act of war, falling under the halakhic definition of *milchemet mitzva*, a war which one has a mitzva to fight in.

Rav Hershel Schachter recalls the events, as well as the opinion of Rav Yaakov Kamenetsky:

…Although generally in a case of pidyon sh'vuyim (rescue of captives) the Jewish community is forbidden to ransom a captive for an exorbitant sum, the ruling in the case of a great scholar is that he should be ransomed even for a sum that exceeds his "worth." Thus, many Rabbis were of the opinion that every effort should be made to secure Rav Hutner's release. Rav Yaakov Kamenetsky dissented, however, arguing that the mitzvah of pidyon sh'vuyim only applies in peacetime, but surely not during hostilities, when the delivery of ransom money to the enemy would strengthen their position! He continued to explain that although a cease-fire existed at the time, the 1948 War of Independence had never really ended, for the Arabs' avowed goal to destroy the State of Israel and drive the Jews into the sea had never been renounced. In his view, although Israel was not then engaged in active battle, in the eyes of the halacha it was considered to be experiencing a mere lull in the ongoing original 1948 War of Independence.[[16]](#footnote-16)

However, on 9 September 1970, Rav Moshe Feinstein released a halakhic statement directed to the government of Israel, demanding that its leaders comply with the demands of the terrorists:

An urgent meeting of the Rabbinic Council held a solemn discussion about the dangerous state of the captives in Jordan and the difficulty of the State of Israel to reach a decision on the matter. We saw fit to express our opinion, the opinion of the Torah on this matter. In Jewish law, saving a life takes precedence. If there is no choice, the State of Israel must comply with the terrorists’ demand to save the hostages’ lives. May G-d protect His people, and may the Jewish people live in peace.[[17]](#footnote-17)

Although the common practice for centuries has been unofficially to pay a high and even exorbitant price to redeem Jewish prisoners, the Maharam’s courageous decision to stay in jail is in line with the spirit of the Talmudic sources. His ruling adds to his unique status in Jewish history as one of the greatest Posekim of all times.

1. See Yona Emanuel, *Divrei Maharam Mei-Rothenburg Bi-shnot Ma’atzaro*, *Ha-Ma’ayan* 33 (1993). [↑](#footnote-ref-1)
2. *Hagahot Maimoniyot, Hilkhot Tefilla* 14:8, *Hilkhot Keriat Shema* 1:11 [↑](#footnote-ref-2)
3. The biggest question this raises is why this story is not mentioned earlier. Rabbeinu Yehuda, son of the Rosh, who was personally involved in collecting the ransom money, does not mention the Maharam’s refusal to be ransomed. See Ephraim Urbach, *Ba‘alei Ha-tosafot*, p. 426; Simcha Emanuel, “Did Rabbi Meir of Rothenburg Refuse to Be Ransomed?” *Jewish Studies Quarterly* 24, No.1 (2017) pp. 23–38; and Eitam Henkin, *Iyun Mei-chadash Be-farashat Shivyo shel Ha-Maharam Mei-Rothenburg,* *Yerushateinu,* Vol. 5, pp. 311-318. [↑](#footnote-ref-3)
4. *Yam shel Shelomo*, [*Gittin* 4:6](https://www.sefaria.org/Mishnah_Gittin.4.6?lang=he-en). [↑](#footnote-ref-4)
5. *Hilkhot Matenot Aniyim* 8:10. [↑](#footnote-ref-5)
6. BT *Gittin* 45a. [↑](#footnote-ref-6)
7. Tosafot, BT *Gittin* 58a, s.v. *Kol.* [↑](#footnote-ref-7)
8. BT *Gittin* 58a. [↑](#footnote-ref-8)
9. Tosafot, *Gittin* 45a, s.v. *De-lo*. [↑](#footnote-ref-9)
10. *YD* 252:4. [↑](#footnote-ref-10)
11. Ibid. [↑](#footnote-ref-11)
12. BT *Gittin* 45a. [↑](#footnote-ref-12)
13. See *Encyclopedia Judaica*, Vol.1, p. 103. [↑](#footnote-ref-13)
14. *Yam shel Shlomo*, [*Gittin* 4:6](https://www.sefaria.org/Mishnah_Gittin.4.6?lang=he-en). [↑](#footnote-ref-14)
15. *Shut Radbaz* 1:40. [↑](#footnote-ref-15)
16. Rav Schachter, “Land for Peace: A Halachic Perspective,” *RJJ Journal of Halacha and Contemporary Society*, Vol. 16. [↑](#footnote-ref-16)
17. The letter can be found online at: <https://www.jewishpress.com/sections/features/features-on-jewish-world/rav-moshe-feinstein-golda-meir-and-redeeming-skyjacked-hostages/2018/08/08/>. [↑](#footnote-ref-17)