

The Rav's Blog – Machon Shilo

The Gilad Shalit Deal – 02: Galuth-Mode Judaism vs. G'ula-Mode Judaism (or: Why Rabbi 'Ovadhya Yoseph Is Dead Wrong... Again)

Rabbi David Bar-Hayim

10-08-64 | 07-11-2011

Before expressing an opinion on a matter, a *poseq* (an Halakhic decisor) needs to be apprised of the facts. (The classic example is requiring expert medical opinion before deciding if an unwell individual may fast on Yom HaKipurim – see Rambam's [MT, Sh'vitath 'Asor 2:8](#)).

Many of you have probably viewed the [brief video clip](#) in which HaRav 'Ovadhya Yoseph, spiritual mentor of Israel's Shas party and widely considered a great Tora sage, can be seen and heard commending PM Binyamin Netanyahu for striking the deal with Hamas terror leaders which resulted in the release of abducted soldier Gilad Shalit. Rabbi Yoseph goes on to explain his position thus: “*that* [future terror attacks] is only a possibility, *this* [saving Gilad Shilat] is a certainty”. These were his exact words in Hebrew: “שמה ספק ופה ודאי”.

Here are some statistics: According to Elyaqim Rubinstein speaking during his term as Attorney General, [80% of terrorists released in earlier deals returned to their terrorist ways](#). (Rubinstein currently serves on Israel's Supreme Court.) [180 people have been murdered](#) by released terrorists since the year 2000. To date, [at least 854 released terrorists](#) have been re-arrested for murder. If you're still unconvinced, someone has done the math for you: there exists [a 99.9% likelihood of at least one lethal attack resulting from this latest release](#) of mass murderers – as close to statistical certainty as you can get. (Would it make a difference if we modified some of the parameters and came up with a likelihood of 90%? I think not.) Of course, the likelihood of multiple attacks with untold dead and wounded, while not 99.9%, remains extremely high.

Nor did we need to wait long. [Moshe Ami](#), 56, of Ashq'lon, died of wounds sustained in a recent rocket attack (01-08-64 | 29-10-2011), the latest in a string of such attacks since Shalit's release after many months of relative calm. Add to this the unprecedented [stabbing](#) of a 17-year-old y'shiva student in the Ramoth neighbourhood of Jerusalem by a man who then escaped to the nearby Arab village of Bet Ikka, and the attempted [stabbing attack in Gush Essyon the day after the release of 477 terrorists](#) (the first 'instalment' of the Shalit deal), and the picture begins to take shape. **The blood bath has only just begun.**

Moreover, not only is his analysis irrational; **HaRav 'Ovadhya Yoseph's position contradicts the Mishna** quoted in the [first part](#) of this blog. Why? Because clearly the Mishna is also speaking of *sapheq* versus *waday*, a possibility versus a certainty. If we ransom a captive Jew, it is certain that he will be a

captive no more. (It is also very possible that we are saving his life). Yet we are instructed by the Hakhamim not to overpay lest we encourage the evil-doers to kidnap more Jews, i.e. a possibility, even a likelihood, but not an absolute certainty. In other words, due to the likely consequences for the community of our actions, we do not give priority to the certain salvation of the individual; the collective welfare of the many outweighs the welfare of the individual. **Wherever it is reasonable to assume that overpaying for a captive will have negative future consequences** (see Ran on Riph, Gittin 23a) **Hazal instruct us to look at the big picture**. No matter how painful. Even where our refusal is likely to lead to his death (see [TB Bava Bathra 8b](#) and [Rashi](#) ad loc.; Ramban to Gittin 45a; Pithhe T'shuva YD 252:4).

The flaw in Rabbi Yoseph's reasoning, however, runs much deeper. **For even if none of the above were true, the Shalit deal would still be utterly wrong because our situation is fundamentally different from that discussed in the foregoing sources**. As described in the [first part](#) of this blog, the Halakhoth pertaining to these matters were formulated not for the present-day State of Israel but for the realities of *Galuth* (Exile): Jewish communities, both inside and outside the Land, dealing with criminals, in a time and place where piracy for profit was commonplace and targeted any and all available victims, Jewish or gentile. For the kidnapers it was simply business; the overarching imperative was not to provide an added incentive to kidnap Jews.

Hamas, and similar organisations, on the other hand, are not businessmen. They and their sponsors are not driven by money. **They are driven by Islamic blood-lust**. Their express aim is to wage *jihad* against the Jewish people until we cease to exist as a sovereign nation in our Land, until all Jews are returned to their 'proper' former status of *dhimmitude*. Kidnapping Jews in order to achieve the release of baby killers is not a career move; it is an act of war intended to demoralise the enemy, weaken his resolve and prepare the way for his elimination.

Even the massive loss of life that will inevitably follow the wholesale reintroduction of terrorists into circulation is not the core issue here. The real question is this: **How does a nation-state conduct its affairs vis-à-vis the outside world, and specifically with regards to those waging war against it?**

This is not the first time Rabbi Yoseph has led many astray. Since the Six Day War, he has supported the policy of 'land for peace' based on the argument of *piquah nephesh* (saving of life). His reasoning is based on the Talmudic dictum that if a Jew is coerced to transgress the Tora or be killed, he is to choose life, with the exception of three areas: the worship of foreign gods, bloodshed and certain types of illicit sexual behaviour ([TB Sanhedrin 74a](#)). While agreeing that handing over parts of the Land to gentiles is forbidden, Rabbi Yoseph points out that this sin is not one of the three singled out by Hazal. Thus, he reasons, seeing that people die in war, it is permissible to hand over land in order to save lives.

Quite apart from the fact that only the reality challenged could actually believe that handing over land to our enemies could possibly lead to peace and saving lives, such a policy is plainly suicidal. Imagine that our enemies demand a part of our homeland, threatening war if we do not capitulate. Now assume that we acquiesce, based on Rabbi Yoseph's logic. If our enemies have their wits about them – and they do – they will realise that they are on to something. What if months or years later, they present us with a similar demand, only this time for another piece of our homeland? According to HaRav 'Ovadhya Yoseph's Halakhic paradigm, we would have no choice but to fold yet again because *piquah nephesh* trumps everything else, right? And thus it would go until we found ourselves in the sea. Put another way: **according to Rabbi Yoseph's Halakhic system, a Jewish state, any Jewish state, is unsustainable.** Valuing the lives of individuals over and above the national imperative of *Klal Yisrael's* (the Jewish people's) continued sovereign existence, capitulating to one's sworn enemies time and again, can only lead to extinction.

The lacuna in Rabbi Yoseph's thinking stems from a mind-set: *Galuth*(Exile)-Mode Judaism. GMJ focuses on the individual and the community. It is never about the nation. Why? Because in *Galuth* there is no nation, only a collection of scattered communities and individuals. The issues pertaining to establishing and running a sovereign Jewish state in Eress Yisrael – something we are commanded by the Tora ([Sh'moth-Exodus 19:6](#)) to do – are simply not on GMJ's radar. **It is no accident that the return of *Klal Yisrael to its homeland*, with all the nearly insurmountable challenges that this entailed, not to mention the long dormant aspects of Jewish life that needed resurrection and revivification, could not be and were not undertaken by Jews steeped in the ways and modalities of GMJ,** but rather by Jews who by and large had broken with that system.

And so it is with Gilad Shalit type deals. GMJ Halakhic thinking gets clouded when faced with issues which are essentially beyond its ken. This is at least one of the reasons why we heard nothing from Israel's chief rabbis. (Another, of course, is the fact that the State pays their salaries.) Nor, apparently, did the *Haredi* (ultra-orthodox) world and its rabbis have anything to say; experience tells us that they do not remain silent when they object to something strongly. On matters such as these, GMJ rabbis are simply out of their depth.

The antidote to GMJ is GMJ: *G'ula*(Redemption)-Mode Judaism (which is confusing, so we'll refer to it here as RMJ). RMJ, or *Torath Eress Yisrael* (the Tora of EY) as it is sometimes called, is not a slogan. It is a very real and extremely serious business, animated by the recognition that the direction and leadership that the Jewish people need and deserve cannot be based on the Tora of the shtetl.

Make no mistake. It is a matter of life or death.