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DILEMMAS FOR ISRAEL IN THE RELEASE OF PALESTINIAN PRISONERS

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Following the Sharm al-Shaykh summit and the declaration of a cessation of violence issued by Palestinian Authority President Mahmoud Abbas, the Government of Israel decided to release 500 Palestinian prisoners. For the time being, the release is restricted to prisoners who have not killed or assisted in the killing of Israelis and who have already served at least two-thirds of their sentence. But the Government also signaled its intention to consider further releases in the future. This decision was intended to be a gesture to strengthen Abbas' political stature and to reinforce positive trends in the dynamics of Israeli-Palestinian relations. Nevertheless, decisions about the size, composition, and conditions of the release required Israel to deal with familiar dilemmas stemming from the sensitivities surrounding this issue.

The road to progress in negotiations on permanent status such as the refugees, the division of Jerusalem and sovereignty over holy places, and the demarcation of borders between Israel and a Palestinian state is undoubtedly strewn with obstacles even though there is a broad measure of agreement around the world (and even in Israel) on the principles that need to underlie any agreement. Nevertheless, the

question of prisoner releases touches exceptionally sensitive nerves in the Israeli debate. Unlike those permanent status issues, the release of Palestinian prisoners is not an existential challenge. On the other hand, the emotional reactions it provokes can have strategic implications if the obstacles they pose to efforts by both sides to reach a broader agreement prove to be insurmountable.

Since Israel is the party that holds prisoners, it is the one expected to do what many of its citizens perceive as an unreciprocated concession. On the other hand, the way in which Israel deals with this issue, whatever the emotional factors, will be interpreted by the Palestinian public as a reflection of good or ill will and as an important test of Israel's intentions concerning the broader political issues, as well. Palestinian demands for a wholesale release of prisoners, often posed as an ultimatum, clearly have an internal political dimension, i.e., they aim to bolster the standing of the new President of the PA. But they also express a genuine Palestinian desire to bring about the release of imprisoned sons and daughters, who are seen as fighters for the realization of national aspirations. For Palestinians, this is a matter of supreme human interest.

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That is also the case for Israelis. True, critics of the decision also voice legal, rational or strategic objections to the release of prisoners, especially of those who were directly involved in the shedding of Israeli blood. The legal arguments are grounded in the belief that commuting the sentences of Palestinians convicted of murder or manslaughter before they have served the minimum term prescribed by law would debase the Israel legal system by violating the principle of equality before the law, in the sense that it would imply preferential treatment for "political" killers over "ordinary" criminals.

The rational objections stem from the assumption that the release of such prisoners will encourage other Palestinians to carry out acts of terrorism against Israelis because it will strengthen their belief that even if they are apprehended, their term of imprisonment will be finite and they will eventually go free. Moreover, the mass release of prisoners may undermine Israeli deterrence by seeming to confirm the claim of Palestinian extremists and their supporters elsewhere, such as Hizbullah, that Israel is a weak society built on fragile foundations and that it cannot stand up to protracted pressure. Finally, the readiness to release prisoners might encourage the taking of hostages as bargaining chips for even more prisoner releases.

These claims are not necessarily borne out by the historical record. There have been mass prisoner releases in the past – in 1978, of 76 terrorists in exchange for one kidnapped Israeli; in 1983, of thousands of Palestinians in exchange for Israeli prisoners held by Fatah; and 1985, of 1150 detainees as part of a prisoner exchange with Ahmad Jibril's Popular Front for the Liberation of Palestine-General Command; and several more recent exchanges with Hizbullah. These releases did not lead to subsequent waves

of hostage-taking or to the collapse of Israeli deterrence. Instead, their primary effect was a short-term propaganda victory for the Arab party to the release. Moreover, the release currently under consideration does not involve a lop-sided exchange that can be portrayed as surrender to extortion. Instead, it is essentially a good-will measure that will, if carried out, take place within the context of a political process aimed at producing a settlement. As such, it can be presented as a benefit for Palestinians deriving from support for political interaction and the rejection of violence, rather than the other way around.

But whatever the political/strategic calculus, there is also an Israeli equivalent to the Palestinian human component – the pain and suffering of the families of victims of terrorism, the hundreds who were killed and the thousands who were wounded in body and spirit. The idea that those who attacked them or their loved ones can go free before paying the full price for their crimes simply prolongs and aggravates the pain of the survivors and the relatives of the dead and wounded.

In dealing with the question of prisoner releases, the government of Israel therefore confronts a variety of pressures – Palestinian political and human needs, Israeli security calculations and emotional inputs – and it must strike a delicate balance between these conflicting imperatives. It would not be surprising if assessments of the political and strategic consequences of prisoner releases are given higher priority in government decision-making on this issue. But it would be no less surprising if the decisions taken, however judicious in this respect, nevertheless produce a great deal of emotional dissatisfaction on all sides of the divide.

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