

## Who can advance Israeli-Palestinian peace? Contributing actors to the peace process

*The fourth paper as part of a joint project between the Mitvim Institute  
and the Davis Institute for International Relations*

### **Does the Road to Peace Pass Through Prisons? The role of former and current inmates in advancing Israeli-Palestinian peace**

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**November 2022**

#### **Abstract**

**Prisoners and former prisoners constitute a significant and distinct group among the Palestinian public, both due to their numbers (hundreds of thousands of Palestinians have served time in Israeli jails since 1967) and their position in society. This position paper examines whether former and current Palestinian inmates can contribute to advancing Israeli-Palestinian peace, and how. The article discusses theoretical aspects that place them in a position to contribute to advancing peace, and provides examples from other countries where prisoners played an important role in advancing or attempting to advance peace. Based on the theoretical knowledge and examples, the article discusses the possible role of Palestinian prisoners in advancing peace. It describes the complexity and legal, moral and security-related issues involved, and points to positive developments, such as a process of moderation and adoption of support for peace undergone by some Palestinian inmates, who over time turned into prominent peace supporters. The article also points to measures that can be promoted in order to realize the potentially positive role of inmates in advancing peace, including dialogue with serving inmates, using the incentive of prisoner release to support moderate positions and to promote peace, and adopting policies of deradicalization, dialogue and prevention, alongside punishment and deterrence measures, in order to turn some prisoners into actors contributing to peace.**

Journalist Ohad Hemo, a veteran observer of Palestinian society, wrote that "if in the future a courageous Palestinian leadership is found willing to strive for a true solution to the conflict, unafraid of harsh domestic criticism and daring to take unpopular steps and make painful concessions... these leaders would be veterans of Israeli prisons."<sup>1</sup>

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<sup>1</sup> O. Hemo, *On the Ground* (Ben Shemen: Keter, 2020), 128 (in Hebrew).

This study seeks to analyze the potential contribution of Palestinian prisoners to the peace process. After a short theoretical and historical review on the role of prisoners in other peace processes, the research will focus on Palestinian prisoners, including their background and status in society. The article will examine cases of prisoners who moderated their positions and explore the issues of prisoner release negotiations, prison as a dialogue arena, and prominent former prisoners who played a role in peace processes. The study will present conclusions regarding the potential for prisoners as players in advancing Israeli-Palestinian peace.

## **B. Historical and theoretical aspects: Prisoner involvement in peace processes**

Various studies have pointed to the central role played by prisoners in national struggles and peace processes. For terrorist and guerrilla organizations, the prisoners are freedom fighters, the prominent and leading representatives of the national struggle. The period of imprisonment serves as a "melting pot" for national and organizational consolidation, growing new leaders or strengthening the position of older ones. For the prisoners, the prison is an arena of resistance and continued struggle against the state, for example through hunger strikes. But prison reality also requires dialogue between inmates, guards and state authorities in order to manage daily life.<sup>2</sup> From the point of view of the state struggling against terrorism, security prisoners are criminals and/or the enemy. Their imprisonment is intended as punishment and deterrence and the official policy is that the state does not negotiate with terrorists.

Based on the experience with the wars of liberation that Britain faced in the Land of Israel (Palestine), Kenya, Cyprus, Malaya (now Malaysia) and later Northern Ireland, British strategists and researchers developed an approach of counterinsurgency warfare which saw captives/prisoners mainly as a source of intelligence and a target for psychological warfare, encouraging defection from their organizations. Researcher Von Tangen Page did not rule out approaches of prisoner punishment, deterrence and counter-insurgency, if used correctly, but argued that at some point in a conflict a transition to a peace-building approach is required. He mentioned three roles for prisoners in peace processes: 1. Prisoners as a dialogue channel between the state and their organization. 2. Prisoner release as an issue in peace negotiations. 3. Roles for prisoners in reconciliation processes.<sup>3</sup>

Northern Ireland is the most prominent historical example of the role of prisoners in promoting peace. Catholic prisoners, members of the Irish Republican Army (IRA), acted as a think tank, examining their organization's methods and developing ideas about reorientation of the organization's strategies. Gerry Adams, later the leader of the Sinn Fein National Party, which developed as the political arm of the Irish Republican Army, spoke in prison in the 1970s about the need to see the armed struggle as a means to a political

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<sup>2</sup> J.M. Norman, "Negotiating detention: The radical pragmatism of prison-based resistance in protracted conflicts", *Security Dialogue* 52, no. 1 (2021): 1-17.

<sup>3</sup> P.M. Von Tangen, "Prisons and Low Intensity Conflict: The need for a peacebuilding approach", *The British criminology conferences: selected proceedings*, 2 (1997) <http://britsoccrim.org/volume2/010.pdf>; Von Tangen, *Prisons, Peace and Terrorism: penal policy in the reduction of political violence in Northern Ireland, Italy and the Spanish Basque Country 1968-1997* (Macmillan Press Ltd., 1998).

purpose. After his release, Adams and Martin McGuinness gradually led the Irish Republican Army to a peace process. Catholic and Protestant prisoners and ex-prisoners helped mobilize support for the peace process in the 1990s. McGuinness was even allowed to visit a prison to rally support from Catholic inmates for the ceasefire. At the same time, however, the issue of releasing Catholic prisoners provoked great opposition to the potential agreement among Protestants. British Secretary of State for Northern Ireland Mo Mowlam in turn visited a prison to rally the support of Protestant prisoners for the peace process. Finally, as stipulated in the 1998 Good Friday Agreement, two years after the signing, all prisoners, both Catholic and Protestant, were gradually released. The case of Northern Ireland demonstrates not only the importance of addressing the issue of prisoners to end the conflict, but also its complexity and sensitivity, which requires a comprehensive and careful approach.<sup>4</sup>

Another recently emerging field of study in recent years, not only in the context of peace processes, deals with the radicalization and de-radicalization of terrorists in prisons. Yet the findings of studies on the subject are lacking in sufficient evaluations of de-radicalization programs, noting that some prisoners abandon terrorism without having participated in such programs at all. On the other hand, some prisoners become radicalized in prison, for example under the influence of charismatic leaders.<sup>5</sup>

Saudi Arabia has reported the deradicalization of thousands of Islamic terrorists who were presented with a more moderate interpretation of Islam, but about 10-20% of them still returned to prison.<sup>6</sup> A comprehensive study examined a successful case of deradicalization and release of Tamil Tigers prisoners in Sri Lanka. As part of the program, the prisoners were isolated from the organization's extremist members and underwent a process of rehabilitation and personal development. The release of deradicalized prisoners was carried out after the organization was defeated in 2009 and the conflict subsided, which surely affected the prisoners' state of mind.<sup>7</sup> The process of moderation depends very much on context and conditions; a de-radicalization program that was successful in one country will not necessarily work in another country and another conflict, but it is important to learn from successes and failures in different places.

Throughout history, many imprisoned terrorist and guerrilla organization leaders have been involved in political negotiations. One of these was Abdullah Öcalan, the sole and undisputed leader of the Kurdish underground (PKK), who was arrested in 1999 and has been imprisoned on the island of İmralı ever since. In 2013, Turkey's intelligence chief met with Öcalan in prison and negotiated with him. In November 2012, Kurdish prisoners staged

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<sup>4</sup> L. Lehrs, "Prisoner release, justice and reconciliation: Between Northern Ireland and Israel-Palestine", *Politica*, 25 (summer 2016):10-17 (in Hebrew); Norman, *Ibid.*; Z. AbuZayyd, "Lessons to Be Learned from the Irish Peace Process: A Palestinian Perspective", *Palestine Israel Journal*, 22, no. 1 (2017); "1998: Sin Fein Backs Peace Deal", *BBC News*; J.F. Norison, "A Time to Think, A Time to Talk: Irish Republican Prisoners in the Northern Irish Peace Process", in Andrew Slike (Ed.), *Prisons Terrorism and Extremism* (Routledge, 2013); J. Mullin, "Mowlam visits the Maze", *The Guardian*, Jan. 10, 1998.

<sup>5</sup> A. Slike, and T. Veldhuis, "Countering Violent Extremism in Prisons: A Review of Key Recent Research and Critical Research Gaps". *Perspectives on Terrorism*, 11, no. 5 (2017): 2-11.

<sup>6</sup> J. Stern, "Mind over martyr: How to deradicalize Islamist extremists", *Foreign Affairs* (2010): 95-108.

<sup>7</sup> Slike and Veldhuis 5-7.

a hunger strike, which ended on Öcalan's orders. In March 2013, about a million Kurds gathered in Diyarbakır and were read a letter sent by Öcalan from prison, calling on them to stop the armed struggle and move to a political struggle. The Kurdish underground declared a ceasefire. However, the negotiations failed and in 2015 the conflict resumed.<sup>8</sup> Another historical example is Nelson Mandela, who was released after 27 years in prison, entered into negotiations with authorities, and was eventually elected President of South Africa. The question, which is also relevant in the Palestinian context, is whether and how a leader can maintain his position and authority within an organization even after years in prison?

These brief historical examples present several possibilities for the contribution and role of prisoners in peace processes: de-radicalization of prisoners in prison, dialogue with imprisoned leaders, released prisoners who play a role in negotiations and the mobilization of public support for a peace agreement, and the release of prisoners as an incentive for peace. But it is also important to understand the limitations of prisoners as actors. The state has a central role as an enabler of prisoners' activities to promote peace, certainly when they are incarcerated. Alternatively, the state can impose a veto on the participation of prisoners and ex-prisoners in negotiations, neutralize them as actors or lead them to become a negative factor (spoiler) in the process. On the other hand, prisoner integration into the peace process is likely to provoke public and political opposition on the part of the victims of terrorism.<sup>9</sup> In conclusion, in order for moves from inside a prison to have an impact, timing is very important, as is the inmates' adaptation to the processes taking place outside the prison and the phase of the conflict.

## C. Palestinian inmates and the Israeli-Palestinian peace process

### 1. *Palestinian prisoners' status in Palestinian society*

Since 1967, hundreds of thousands of Palestinians have been imprisoned in Israeli prisons for security offenses. In the peak years of the first intifada, the number of prisoners reached about 13,000 people.<sup>10</sup> Prisoners have a central place in the Palestinian national ethos, they are seen as soldiers and heroes, as those who fought against Israel and sacrificed for the cause. April 17th is designated "Palestinian Prisoner's Day", which is marked every year to reflect society's recognition of prisoners through demonstrations, school events, and more.<sup>11</sup> The release of prisoners is one of the fundamental Palestinian demands in any negotiation. According to a law enacted in the Palestinian Authority (PA) in 2004, "The National Authority

<sup>8</sup> I. Traynor and C. Letsch, "Locked in a fateful embrace: Turkey's PM and his Kurdish prisoner", *The Guardian*, Jan. 10, 1998; A. Savran, "The Peace Process between Turkey and the Kurdistan Workers Party, 2009-2015". *Journal of Balkan and Near Eastern Studies*, 22, no. 6 (2020): 777-792.

<sup>9</sup> Lehrs 13-14.

<sup>10</sup> The number of prisoners since 1967 is based on data compiled by the Ministry of Palestinian Prisoners. It may be excessive but there were undoubtedly hundreds of thousands of prisoners. See R. Shaked, "Behind the kaffiyeh: the conflict from the Palestinian perspective" (Rishon LeZion: Miskal, 2020): 236-237. The term "prisoners" in this article refers only to those jailed for security-related offenses. The status of criminals in Palestinian society is different.

<sup>11</sup> Shaked 236-237; A. Goldberg, "Security prisoners: the dynamics between the prisoners and Palestinian society and the relationship to the issue of national security", dissertation at the National Security College (2008); M. Rosenfeld, "The Centrality of the Prisoners Movement to the Palestinian Struggle against the Israeli Occupation: A Historical Perspective", in Abeer Baker and Anat Matar (Eds.), *Threat: Political Prisoners in Israel* (Pluto Press, 2011): 3-24.

is prohibited from signing or participating in the signing of a peace agreement to resolve the Palestinian problem without the release of all prisoners".<sup>12</sup>

Palestinian society grew tired following the second intifada and successive wars in Gaza, becoming more concerned with survival and less with mobilization. According to several observers, this was manifested in a decline in the importance of the prisoners' issue and in the status of released prisoners among the Palestinian public. However, events of the past decade have brought the issue back to the forefront of the Palestinian agenda.<sup>13</sup>

The PA pays the prisoners a salary, part of which goes to their families. The 2013 allocation for these payments was about 400 million NIS. Starting in 2014, the Netanyahu government raised the issue of prisoner payments, arguing that it is an expression of the PA's support for terrorism, and pressured it to stop. In 2018, Israel passed a law mandating the deduction of the sums the PA pays prisoners from money transfers that Israel collects for the Palestinians in accordance with the Paris Agreement (1994). When the subject of payments to prisoners was raised in a conversation between President Trump and Palestinian Authority (PA) Chair Mahmoud Abbas (Abu Mazen), the latter refused to stop the payments. The PA, unable to undermine the ethos of the prisoners, tried to examine alternatives, such as the employment of released prisoners and payments according to the condition of the prisoner's family. Israel, fearing a weakening of the PA harmful to Israeli interests, spread the offset over 12 months and granted the PA a loan<sup>14</sup>. Prisoners also play a role in Palestinian internal politics. In April 2021, ahead of the planned PA elections, Abu Mazen received a letter from Fatah prisoners who asked to postpone the voting. This, in fact, was an attempt on his part to use the prisoners to gain support for his unpopular decision to postpone, and in effect cancel the elections.<sup>15</sup>

Palestinian non-governmental organizations are also active on the prisoners' issue. A 2016 document by the Palestinian consulting institute Masarat proposed formulating a national policy on the prisoner issue to help overcome the split between Fatah and Hamas. The document suggested several policy alternatives: 1. Prisoner exchange deals following a kidnapping. 2. Peace negotiations. 3. A campaign, both internal in the territories and internationally, for the release of prisoners. However, the document's authors admitted that

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<sup>12</sup> Shaked 236-237.

<sup>13</sup> Hemo, 103-104; 108-109; Goldberg 51-59; Bachar A. (2016). "Palestinian prisoners between the community and the individual - a view from the inside", *Acts of Law* 8, 103-106.

<sup>14</sup> R. Dagoni, "Trump: Abu Mazen refused to stop payments to prisoners' families", *Globes*, May 4, 2017; C. Berger, A. Shalom, "Abu Mazen in a message to the USA: I will pay the families of the prisoners and the martyrs until my last day", *Globes*, Aug. 24, 2017; Y. Mendel, "When the Authority stops paying the prisoners", *The Forum for Regional Thought* (2018); B. Ravid, "Debate in the Cabinet: Gantz, Michaeli and Horowitz had reservations about the timing of the freeze on Palestinian tax funds", *Walla*, July 13, 2021; "The Palestinian Authority is looking for creative ways to continue to transfer payments to terrorist prisoners and members of the families of martyrs while bypassing the Israeli resistance", Information Center for Intelligence and Terrorism, Nov. 20, 2020; Y. Kuperwasser, "The Palestinian Authority and Israel are looking for a way to bypass payments to terrorists", *The Jerusalem Center for Public and Public Affairs*, August 2022; Kuperwasser, "Incentivizing Terrorism: Palestinian Authority Allocations to Terrorists and Their Families", *Jerusalem Center for Public Affairs* 2016.

<sup>15</sup> N. Shragai, "When it comes to Hamas, the democratic dream quickly turns to illusion", *Israel Hayom*, April 2021.

the internal Palestinian division was harmful to the prisoner issue.<sup>16</sup> In conclusion, it seems that even if the prisoner issue drops out of focus at times, the prisoners remain an important symbolic factor in Palestinian society, while also being used as a tool in internal Fatah-Hamas struggles.

## 2. *Inmates in Israeli prisons: moderation or radicalization?*

Hundreds of thousands of Palestinians have been held in Israeli prisons over the years, and while it is difficult to generalize about the attitudes and characteristics of such a large population, it can be said that the prisoners constitute a subgroup of Palestinians who have had prolonged contact with Israel and were influenced by it. Many arrived in prison as young people with no education. The prisons have served as a "school" where they received political education and learned the history of their organization and of the Palestinian struggle.<sup>17</sup> However, the prisoners were also exposed to Israeli society: learning Hebrew, reading newspapers and books about Israel, watching Israeli television channels, undertaking academic studies (since the 1990s, prisoners were allowed to study at the Open University), and contact with prison guards.<sup>18</sup> Prisoners also engaged in discussions among themselves on political issues, adopted procedures of elections and internal democracy, and elected "spokesmen" tasked with representing them vis-a-vis prison authorities. Hisham Abdel Razak, a resident of Gaza, and Karim Younes, an Israeli Arab convicted of murdering a soldier, wrote books in prison criticizing Fatah. In his 1990 book, Younes called on the Palestinian leadership to change its perception of Israel. When Fatah inmates summoned Younes for questioning because of his unusual attitudes, he claimed that since he fought the Israelis and was sentenced to life imprisonment, they had no right to declare him a collaborator with the enemy. His book was distributed in the prison and sparked a discussion among the prisoners.<sup>19</sup>

According to testimonies of incarcerated and released prisoners, from different periods, a jail term contributed to moderation and support for peace.<sup>20</sup> A number of senior officials in the Israel Prison Service (IPS) claimed that academic studies and exposure to information may influence prisoners and prevent a return to terrorism. However, following public criticism, in 2011 the Israeli government decided to prevent prisoners from participating in academic studies.<sup>21</sup>

<sup>16</sup> Nahu siyasa wataniya litafil kadiyat alusra waitlaq sirahhum (9 tishrin althani). Almarkaz alfalastini liabhat alsiyasat waldirast alstrategia – masarat (arabic)

<sup>17</sup> M. Milstein, *Between revolution and state: Fatah and the Palestinian Authority* (Tel Aviv: Tel Aviv University, Moshe Dayan Center for Jewish Studies, 2004): 37-33, 58-57, 116. About the education of jailed prisoners, see S. Eldar, *Gaza as Death* (Tel Aviv: Miskal, 2005): 35-45; Rosenfeld 3-8.

<sup>18</sup> Eldar, *Gaza*, 69-35, 94, 176-170; N. May, "The libraries of security prisoners in Israel", *Mida'at* no. 11 (September 2015).

<sup>19</sup> Eldar, *Gaza*, 57-56; Bachar, *Ibid*; J. Breiner, "Despising the death penalty and talking about Israeli politics", *Haaretz*, Jan. 25, 2019; Hemo 122-119; S. Yehoshua, "Personality characteristics of terrorist leaders in prison", *A window into the prison* 12 (February 2009): 115-104.

<sup>20</sup> Eldar, *Gaza* 35-70; Hemo, 128-119; C. Berger, "Behind bars", *Kan News*, February 2018; E. Levy, "In prison I understood Israelis want peace, says released Palestinian murderer", *Ynet News*, Feb. 15, 2018.

<sup>21</sup> Warden Moshe Ohion wrote an article on the effect of education on security prisoners. Although the findings were inconclusive, he supported the practice. M. Ohayon, "Higher Education Changing Reality of Palestinian Security Prisoners in Israel", *The European Proceedings of Social & Behavioral Sciences* (2016).

"Is it possible to prevent security prisoners from returning to terrorism?", *Channel 2 News*, June 26, 2014.

Obviously, some prisoners' attitudes did not change during their incarceration. Some of them took advantage of their Hebrew studies and familiarization with Israel in order to continue their struggle once freed, for example senior Hamas officials Yahya Sinwar and Saleh Al-Aroui.<sup>22</sup> There is not enough data about the number of prisoners who have been de-radicalized in prison compared to those who have been radicalized (see below about the data about prisoners returning to prison). Organizational affiliation is of great importance. The IPS allows the prisoners a large degree of self-management, they are placed in cells according to their organizational affiliations and continue to fulfill roles in their organization. They are also subject to the supervision of the organization's representatives in prison in order to prevent them from cooperating with Israel. According to a 2003 IPS intelligence review: "With the signing of the Oslo Accords, there was a change in the general attitude of the security prisoners... The Fatah prisoners and the supporters of peace adopted a moderate policy and held negotiations with the prison management, while Hamas continued with an extreme policy in the struggle."<sup>23</sup> This is evidence that events outside the prison also impact prisoners. Furthermore, de-radicalization is affected by individual factors such as a prisoner's age, the duration of his prison term, and more.<sup>24</sup>

Are Hamas prisoners open to de-radicalization? Hemo wrote about an internal discussion among former prisoners who were members of Hamas in the West Bank, in which pragmatic positions were expressed that deviated from the organization's ideology. Criticism was also voiced about the utility of terrorist attacks, as was recognition of the Jews' connection to Israel, all attitudes influenced by reading and discussions in prison. However, those Hamas members are not ready to express these positions openly today.<sup>25</sup>

### 3. *The prisoner issue in Israel-PLO negotiations*

Israel has released approximately 9,300 prisoners in accordance with the interim agreements with the PLO since 1994, which constituted the majority of prisoners arrested before the Oslo process. Israel also released prisoners as a goodwill gesture to the PA after 2003, and as part of efforts to renew negotiations in 2013. These releases were carried out as confidence-building measures intended to strengthen support for peace and the PA.<sup>26</sup> In practice, alongside a positive impact, problems and disputes also arose.

Prisoners are not just a bargaining chip in the hands of negotiators, or a passive element in a peace process. They exert pressure from behind prison walls, through their families and with the help of ex-prisoners in senior PA positions committed to the release of their comrades. According to Mohammed Dahlan, in May 1993, when he was in Tunis and a possible agreement with Israel began to take shape, he was approached by the PLO leadership to check whether he would support the agreement and the cessation of terror attacks. Dahlan asked if Palestinian prisoners would be released and whether he would be

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<sup>22</sup> J. Hugi, "Deciphering the DNA: why terrorist organizations push Israel's limits", *Ma'ariv*, May 28, 2021; Hemo 92-96.

<sup>23</sup> Yehoshua 106-104; The 2003 Israeli intelligence review cited in Goldberg, 3; Y. Breiner, "Extremists and bold: Israeli forces have difficulty controlling jihad prisoners", *Haaretz*, Sept. 12, 2021.

<sup>24</sup> B. Hasisi, T. Carmel, D. Weisburd and M. Wolfowicz, "Crime and Terror: Examining Criminal Risk Factors for Terrorist Recidivism", *Journal of Quantitative Criminology* 36 (2020): 449-472.

<sup>25</sup> Hemo 78-102.

<sup>26</sup> For a review of the prisoner releases, see Lehrs 15-21; Rosenfeld 17-18.

allowed to return to Gaza, as conditions for his support of the agreement. He arranged a telephone conversation between Abu Mazen and a group of former prisoners, including Sufian Abu Zaida, Ehab Al-Ashkar and Sami Abu Samhadana in Gaza. Abu Mazen assured them that the prisoners would be released.<sup>27</sup>

The 1998 Wye River Agreement called for the release of 750 prisoners, but most of those that Israel released were criminals and only about 200 were so-called security prisoners. As a result, disturbances dubbed the "prisoners' intifada" broke out with PA forces, threats were issued and Abu Mazen's house in Gaza was attacked, he had to move to the West Bank and needed security. A conflict also arose within the Palestinian elite. According to Sher, Dahlan and Hassan Asfour confronted Abu Mazen and accused him of "selling out the prisoners" and "trading in the blood of our brothers". In fact, it was Arafat who had previously made concessions on the prisoners' issue, but it was apparently more convenient to place blame on Abu Mazen.<sup>28</sup>

At the 2000 Camp David summit and the 2007-2008 Annapolis process, Israel agreed to release prisoners once a permanent agreement was reached.<sup>29</sup> Palestinian pollster Khalil Shikaki has said that the release of prisoners could strengthen Palestinian support for the two-state solution, which is at a low ebb.<sup>30</sup>

The difficulty of leveraging prisoners' release to promote peace, despite the massive number of those freed, stems from differences in perceptions and expectations, lack of trust, and perhaps also poor preparatory work. Israel has set criteria for release according to which it will not release prisoners "with blood on their hands", that is, those convicted of murder, nor Arab prisoners who are citizens of Israel and East Jerusalem. In 2007, Kadura Fares, a former prisoner and later a Palestinian Authority minister, claimed that Israel releases prisoners on the verge of release or criminal prisoners "whose release has no Palestinian national significance" and that Israel's policy on the issue of prisoners weakens Abu Mazen and strengthens Hamas.<sup>31</sup>

Since the 1985 Jibril deal, when 1,187 Palestinian terrorists were released in exchange for three Israeli soldiers, the terrorist organizations have identified the issue of captives and hostages as an Israeli Achilles' heel and succeeded in bringing about the release of thousands of Palestinian prisoners in hostage deals. After the Oslo Accords, the PA worked to release prisoners through negotiations with Israel, while Hamas continued its attempts to kidnap soldiers and civilians. The 2011 deal in which Israel released 1,027 Palestinian prisoners in exchange for the return of the kidnapped soldier Gilad Shalit indeed strengthened Hamas within the Palestinian public as well as its claim that kidnapping soldiers, not negotiating a peace process, leads to the release of prominent prisoners who were sentenced to life in

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<sup>27</sup> Eldar, Gaza 89-90.

<sup>28</sup> Eldar, Gaza 70-69, 90-89; Lehrs 17-18; Milstein 68, 93-92; C. Sher, *Within Reach* (Tel Aviv: Miskal 2001): 38-39.

<sup>29</sup> Sher, 99-100; A. Tsanani, "Annapolis Process (2007-2008): Oasis or Fata Morgana" (Tel Aviv: Tami Steinmetz Center for Peace and Molad Studies 2015): 40, 143.

<sup>30</sup> I. Gill and R. Kukhun, "Interview with Dr Khalil Shikaki", *Les Cles du Moyen-Orient*, June 21, 2020.

<sup>31</sup> Sher 57-45, 91; A. Tibon, "14 years in an Israeli prison teach you something," *Walla*, June 13, 2007; Eldar, Gaza 69-70.



prison. In the Israeli public discourse, a distinction is not always made between the release of prisoners as part of negotiations that may strengthen moderate factions and the release of prisoners in return for kidnapped soldiers or civilians.<sup>32</sup>

Information regarding released prisoners who resume militant and terrorist activity is conflicting and partial. According to a study by Carmel et. al. based on IPS data regarding 26,630 security prisoners from 2004 to 2017, 17.3 percent of the released prisoners returned to prison five years later. A previous study by Hasisi et. al. that focused only on 1414 security prisoners from Jerusalem during that period showed that approximately 60% returned to prison. An important factor for the significant difference in the data is probably the fact that released prisoners living in PA territories have rehabilitation and employment options, for example in PA institutions, while released prisoners living in Jerusalem under Israeli rule do not.<sup>33</sup> According to Goldberg, who relied on IPS data from 2008, 35% of the released prisoners returned to prison, about 80% of them Hamas and Islamic Jihad members. According to Shragai, of 7,000 prisoners released under the Oslo Accords by 1999, about half returned to terrorism in the second intifada.<sup>34</sup> These data points show that the timing and context of prisoners' release is of great importance, combined with the conditions into which the prisoners are released.

#### 4. *Prison as a channel for dialogue*

Being in prison creates an opportunity for both sides, Israelis and Palestinians, to conduct a dialogue that would probably not have been possible outside of prison, including with extremist elements. Ismail Haniya, a senior Hamas official, claimed in 2005 that there are no contacts between Hamas and Israel, but that Israeli officers are talking to senior Hamas officials in prison. The Israeli system has often conducted a discreet dialogue with prisoners and allowed them to contact outside parties in order to promote moves, such as negotiations for the release of prisoners, a ceasefire, or the transmission of messages to the organization. David Hacham, a senior Civil Administration official, had conversations in prison with Hamas leader Sheikh Yassin both during times of crisis (the Toledano and Waxman kidnappings in 1992 and 1994, respectively), and on his positions in general, for example on the issue of elections in the territories. He also spoke in prison with Islamic Jihad leader Fathi Shikaki.<sup>35</sup>

A prominent prisoner with whom Israel has engaged in dialogue with over the years is Marwan Barghouti. Barghouti was arrested when he was 19 years old in 1978 on charges of membership in Fatah squads and imprisoned for five years. After his release, he studied at university and was a prominent Fatah activist. In 1987 he was expelled from the territories and in 1994, following the Oslo Accords, he returned. At that time, he participated in

<sup>32</sup> R. Bergman, *The State of Israel will do everything* (Or Yehuda: Kinneret-Zmora-Bitan 2007); A. Issacharoff, "A decade to the Shalit deal: how it affected us and the region", *Ma'ariv*, Oct. 9, 2021.

<sup>33</sup> T. Carmel, M. Wolfowicz, B. Hassisi, and D. Weisburd, "Terrorist Recidivism in Israel: Rates, Patterns and Risk Factors", in David Weisburd, Ernesto U. Savona, Badi Hasisi and Francesco Calderoni (Eds.), *Understanding Recruitment to Organized Crime and Terrorism* (Springer 2020): 85-104; Hasisi, Carmel, Weisburd and Wolfowicz, *Crime and Terror*, 449-472.

<sup>34</sup> Senior Warden Dr. Y. Vaknin, Dr. K. Ben Tzvi, "Recidivism report in Israel 2013-2018", IPS Research Branch, 18-19 (November 2019); Goldberg 42, 70-72; Bergman, State 580; N. Shragai, "Do I sound bad? I apologize, but this is a price that should not be paid", *Israel Hayom*, June 20, 2020.

<sup>35</sup> Eldar, Gaza 303; D. Wise, *Gaza at eye level* (Israel: Modan and Ministry of Defense 2020): 49-53.

meetings with Israeli peace activists. With the outbreak of the second intifada in 2000, Barghouti played a central role as the leader of the Tanzim. He was arrested by Israel, convicted in 2004 and sentenced to five life sentences plus 40 years in prison for murder and involvement in terrorism. His name is often mentioned as a future Fatah leader.

Israeli politicians such as Tzipi Livni and Amir Peretz met with Barghouti in prison. As a member of the Knesset, Haim Oron acted as an intermediary to convey messages from Barghouti to Prime Ministers Sharon and Olmert. Ephraim Sneh and the late Gideon Ezra, a minister and former Shin Bet official, suggested that Barghouti's release from prison would contribute to the promotion of peace. Ahead of the 2006 elections, against the backdrop of concerns about the weakening of Fatah, Israel allowed Barghouti to give interviews from prison to Al-Jazeera and Palestinian television, in which he called for the unification of ranks within Fatah. But despite these efforts, it was Hamas that won the elections. The late Yitzhak Ilan, a former Shin Bet senior official, claimed that Barghouti was supposedly pragmatic in prison, but as soon as he got out of prison he would be revealed as an extremist. There is a dispute among Israeli officials regarding Barghouti's status among the Palestinians today and whether his positions have moderated.<sup>36</sup>

In May 2006, Barghouti, together with Abdel Khalek Natshe from Hamas and prisoners representing Islamic Jihad, the Democratic Front and the Popular Front in the Hadarim Prison, drafted the "Prisoners' Document", which was intended to serve as a basis for internal Palestinian unity and a coordinated position vis-à-vis Israel. The document called for the establishment of a Palestinian state within the 1967 borders and also for the guaranteed right of return and release of all prisoners. Abu Mazen stated that he would hold a referendum on the document, while Hamas renounced it. The document did not bring about change, but is an example of an attempt to promote an internal Palestinian dialogue from within prison and a move that could have had consequences for negotiations with Israel.<sup>37</sup>

##### *5. Released prisoners who have played a role in contacts with Israel*

Following the establishment of the Palestinian Authority in 1994, many released prisoners were integrated into its various security forces and the Palestinian government. Several examples of former prisoners who played a significant role in relations with Israel can be cited.<sup>38</sup>

Jibril Rajoub, for example, was arrested at the age of 17 and spent 15 years in prison until being released in the 1985 Jibril deal. Rajoub wrote a book in prison, studied Hebrew and

<sup>36</sup> The Meir Amit Intelligence and Terrorism Information Center. July 13, 2017. "[Marwan al-Barghouti, a partner for negotiations with Israel or a terrorist?](#)" G. Weitz and J. Khoury, "The Silent Partner", *Ha'aretz Magazine*, July 1, 2016; Y. Avraham, "Exposure: The complete document of the visits of Knesset members to prisoners", *N12 news site*, Aug. 6, 2019; A. Somfalvi, "MK Oron mediates between Barghouti and the Prime Minister's office", *Ynet*, Nov. 27, 2006; A. Yablonka, "Consider releasing Barghouti to strengthen the moderates", *Maariv*, Feb. 4, 2007; S. Eldar *Get to know Hamas* (Jerusalem: Keter Books, 2016): 146-144; B. Caspit, "Gaza must be conquered" (interview with Yitzhak Ilan), *Ma'ariv*, June 5, 2020.

<sup>37</sup> "The complete version of the prisoners' document", *Haaretz*. June 6, 2006; Goldberg 60-68.

<sup>38</sup> "Fatah central committee profiles", Washington Institute (2015) <https://www.washingtoninstitute.org/media/2445>

translated Menachem Begin's book "The Revolt" into Arabic. He built his position as a leader in the prison, and moved to Tunis in 1988, three years after his release. After the 1993 signing of the Oslo Accords, Rajoub and Mohammed Dahlan, also a former prisoner, held meetings with Shin Bet chief Perry and Deputy IDF Chief Shahak for the purpose of establishing security coordination between Israel and the Palestinians. Rajoub was appointed head of the PA's counter-terrorism agency in the West Bank and Dahlan to the same position in Gaza. They were responsible for the security coordination with the Shin Bet. Dahlan also worked constructively before and during the 2000 Camp David summit.<sup>39</sup> Dahlan fell out with Abu Mazen and left the territories, but he is still active in the Palestinian arena, recently expressing support for the one-state solution. Rajoub served as chairman of the Palestinian Football Association and was involved in reconciliation efforts with Hamas. Both Dahlan and Rajoub are mentioned as potential successors to Abu Mazen.<sup>40</sup>

Qadura Fares served time from 1980 to 1994, and in 1992 led a hunger strike of 15,000 prisoners. After his release, he was made a minister in the Palestinian government and headed the Palestinian Prisoners' Club, a non-governmental prisoner aid organization.<sup>41</sup> According to Menachem Klein, a member of the Geneva Initiative, an Israeli-Palestinian civil society initiative that proposed an agreed outline for a permanent settlement, the participation of Fares and of former prisoner and Fatah member Mohammed al-Hourani in the Initiative's Palestinian team in the summer of 2003 had a positive effect on the negotiations and strengthened support for the plan. Their participation in the Initiative's Palestinian negotiating team was done with the knowledge of the Tanzim committees and Marwan Barghouti in prison, whereas previously, the Palestinian team led by Yasser Abd Rabu had no public standing. Fares and Al-Hourani asked to re-open issues that had been agreed upon in earlier talks, including the release of prisoners. Nonetheless, they stood out in taking responsibility, making decisions and striving for agreements. Their participation in the initiative provoked criticism from Fatah veterans.<sup>42</sup> Former prisoners like Hisham Abdel-Razak and Ashraf al-Ajrami are also members of the Geneva Initiative and as part of its operations have participated in many meetings with public opinion leaders and the Israeli public to present the Palestinian point of view and promote support for the Initiative.<sup>43</sup>

Hussein al-Sheikh was imprisoned intermittently from 1977 to 1988. With the establishment of the Palestinian Authority, he helped found its security agencies and served as a senior official, was Fatah's secretary general in the West Bank in 2000, and is currently the Minister of Civil Affairs in charge of relations with Israel.<sup>44</sup> Al-Sheikh and Majed Faraj, a former prisoner and now head of the PA's intelligence service, maintained contact with Israel even at times of crisis during President Trump's term, and after Abu Mazen announced the end

<sup>39</sup> D. Moreh, *Gatekeepers* (Tel Aviv: Miskal, 2014): 111-110, 211-210, 226-224; M. Indyk, *US Peace* (Tel Aviv: Am Oved, 2009): 308-307, 313-312, 324-323, 326.

<sup>40</sup> J. Hogi, "The idea is gaining momentum: the scenario of the bi-national state is moving to the center of the Palestinian stage", *Ma'ariv*, Dec. 24, 2021; O. Hemo, "Who will be Abu Mazen's successor?" *Liberal*, April 19, 2015.

<sup>41</sup> Tibon, *Ibid.*; Milstein 130.

<sup>42</sup> M. Klein, *The Geneva Initiative: An Inside Look* (Jerusalem: Carmel, 2006): 55-52, 64-62; Milstein, 130-133.

<sup>43</sup> "The results of the US elections diminish hope in the Palestinian public", Press conference with Ashraf Al-Ajrami, Geneva Initiative, Nov. 12, 2020.

<sup>44</sup> Milstein 137; N. Barnea, "How hard are the nights", *Yedioth Ahronoth weekend magazine*, May 14, 2021.

of security coordination with Israel. Both Al-Sheikh and Faraj are subject to severe internal Palestinian criticism due to their adherence to this policy of continued contact.<sup>45</sup>

In 2011, Issa Karaka, Minister of Prisoners in the Palestinian Authority, said "All senior Fatah officials today who call for peace with Israel are ex-prisoners, many people who enlisted in the security agencies are ex-prisoners. The peace process is clinically dead and on life support systems operated by those who were once jailed in Israeli prisons."<sup>46</sup>

PLO members who returned to the territories from Tunis and other countries following the Oslo Accords were given positions in the newly established PA and, to a certain extent, pushed aside influential local Fatah leaders in the organization. Referring to the differences between the two groups, Hisham Abdel Razak, a resident of Gaza who spent 21 years in an Israeli prison and served as minister for prisoners' affairs after his release, said: "It turns out that we were much better than them. We were more educated than most of them, because we studied in prisons, and above all we knew the Israelis. We knew what their weak points were and what really hurt them. We saw them as an enemy, but sometimes we saw them also as human beings, not like those who came from Tunis with fixed and mistaken perceptions about the Israelis."<sup>47</sup>

Since the signing of the Oslo Accords and following the outbreak of the Second Intifada, some of the differences between the two PLO groups have become blurred. Some PLO returnees have gained experience in dealing with Israel. On the other hand, some former Fatah prisoners disappointed with the peace option with Israel radicalized their positions. Nonetheless, their formative experience in prison, their knowledge of Hebrew and of Israel, could still have an added value if and when the peace process is renewed.

Former prisoners also occupied and continue to occupy central Hamas leadership positions. Yahya Sinwar, currently the leader of Hamas in Gaza, spent 23 years in an Israeli prison, where he built up a leadership position. He speaks Hebrew and is a consumer of Israeli media. While in jail in Israel, Sinwar underwent surgery that saved his life. He was released in the 2011 Shalit deal and elected in 2017 to head Hamas in Gaza. Sinwar has demonstrated pragmatism at times in pursuing a long term ceasefire with Israel. At the same time, he has not renounced the use of violence. In May 2021, Hamas under his leadership launched a rocket attack on Jerusalem that triggered an Israeli response known as "Operation Guardian of the Walls". At the time of this writing, it is difficult to assess whether that round of fighting will result in a long-term lull or in yet another conflict. As an ex-convict, Sinwar is also deeply committed to the liberation of prisoners.<sup>48</sup>

## E. Conclusion and recommendations

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<sup>45</sup> C. Berger, "The glorious descent of the Palestinian Authority from the tree", *Kan News*, Nov. 18, 2020; M. Elad, "The man who may succeed Abu Mazen as the next Palestinian president", *Globes*, Sept. 6, 2014.

<sup>46</sup> A. Levy, "Palestinian minister: the worsening of the prisoners' conditions will lead to a confrontation", *Ynet*, July 4, 2011.

<sup>47</sup> Eldar, Gaza 93-94.

<sup>48</sup> P. Bori, "For me, a ceasefire is absolute silence and the end of the siege", *Yedioth Ahronoth* weekend magazine, Oct. 4, 2018; D. Zaken, "The terrorist who cracked the arrangement", *Globes*, Dec. 27, 2019.

Israel regards Palestinian prisoners and ex-prisoners as extremely problematic actors due to their past record and potential to return to terrorism once released. But they are also a significant group among the Palestinian public with the greatest potential for promoting peace. In fact, as shown in this paper, prisoners have played a role in promoting discourse and maintaining contact with Israeli officials, either as individuals or as a group. They are not a uniform group. In prison, and after their release, they operate within the framework of their organizations, but their social status and personal sacrifice they made in prison may allow them to deviate from organizational policy and promote peaceful measures. In the post-Abu Mazen era, the balance of power between the weakened Fatah and Hamas will probably shift, with leadership entrusted to a single leader or perhaps a group, but either way, former prisoners are highly likely to play a role in the future Palestinian leadership.

Many Israelis will perceive current and former prisoners as illegitimate even if they seek to promote peace. Palestinian leaders who were not prisoners may be perceived as legitimate by Israel, but may have less support in Palestinian society. Former prisoners could potentially play a positive role in promoting peace due to their familiarity with Israeli society and their knowledge of Hebrew, which has allowed them to address the Israeli public directly through media interviews. In order to promote peace, the prisoners will have to adapt to the changes that have taken place in Palestinian society (the split between Fatah and Hamas, a young generation with a different agenda) and in Israeli society, and take significant steps to overcome the deep suspicion and mistrust between all parties. On the other hand, Israel's leadership and public also need to recognize the centrality of the prisoners in Palestinian society and realize that reaching an accommodation with the other side will be far more difficult without the former inmates' support and participation.

According to the late senior IPS warden Goldberg, the State of Israel did not have a long-term policy or strategic planning regarding security prisoners. The policy was influenced by the approach of incumbent prison commissioners, the government's position and public and political response to events. The conditions of imprisoned terrorists have drawn political and public criticism for being overly generous, with various accounts describing the jails as a summer camp or hotel. A 2018 committee recommended degrading these conditions but its proposals were not implemented. After six Palestinian security prisoners escaped from Gilboa Prison in September 2021, an investigative committee was appointed, but as of this writing, it has not submitted its conclusions, which may lead to policy changes towards security prisoners.<sup>49</sup> Policy towards security prisoners is believed to be aimed at ensuring calm both inside the prison walls and in Judea, Samaria and Gaza, where Palestinians often respond to unrest among those they view as their brothers in Israeli prisons.

However, along with punishment and deterrence policies vis-à-vis the prisoners, Israel should consider additional measures, which may contribute to strengthening positive trends. Without ignoring the complexity and risks, several recommendations can be made:

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<sup>49</sup> B. Caspit, "Known in advance: The recommendations that were not implemented regarding the prisoners and the allegations against Ben Shabbat", *Ma'ariv*, Sept. 9, 2021; B. Caspit, "The price of summer camp", *Ma'ariv*, Sept. 21, 2021.

**1. Promoting indirect deradicalization.** Israel does not offer de-radicalization or rehabilitation programs for security prisoners.<sup>50</sup> Palestinian prisoners, for their part, would likely resist participating in such programs because they see themselves as political prisoners. In addition, they know that once released, they will return to an environment that supports their actions and views them as heroes. In light of past experience, many inmates hope to be traded and released in return for an Israeli hostage abducted by their organizations. Given these conditions, Ganor and Falk cast doubt on Israel's ability to implement a meaningful de-radicalization program.<sup>51</sup> However, some prisoners have undergone a process of de-radicalization, abandoning terrorism and supporting peace influenced by reading about, studying and being exposed to Israeli society. Israel could encourage and expand this process of "indirect de-radicalization" and should learn relevant lessons from the experience of de-radicalization programs undertaken among criminal prisoners around the world, especially among gang members, whose characteristics are somewhat similar to members of terrorist organizations.

**2. Distinguishing between coerced prisoner release deals and prisoner releases for the sake of promoting peace and strengthening moderates.** Freeing prisoners before the end of their term is problematic from a moral and legal point of view and subject to political and professional criticism as well as condemnation by the families of the victims of terrorism. The Almagor organization, which represents victims of terrorism, has held demonstrations and petitioned the High Court in attempts to prevent proposed prisoner release exchanges and deals.<sup>52</sup> The High Court has not intervened, arguing that the issue was political in nature. There is undoubtedly an element of risk in the release of jailed terrorists, as demonstrated by a return to terrorist attacks in some cases.<sup>53</sup> The Palestinian terrorist organizations have long identified the release of Israeli captives and abductees as a weak point for Israel. After the 2011 Shalit deal, the Israeli government tried to toughen its policy on the issue of prisoner releases. But the desired policy should distinguish between the release of prisoners in a transaction with Palestinian organizations in return for a kidnapped Israeli, and the release of prisoners within the framework of peace negotiations, which at the right time and under appropriate circumstances may serve Israel's interests - promoting peace and preventing conflict.

**3. Establishing channels of dialogue with prisoners.** Given the pivotal position of the prisoners in Palestinian society, Israel should consider the opportunity to hold a secret dialogue with leaders and potential leaders from among the jailed security prisoners. It is also important to include former prisoners in think tanks and back-channel dialogue between Israelis and Palestinians and also in official negotiations if and when they are renewed.

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<sup>50</sup> In 2016, an attempt was made to encourage the moderation of some ISIS prisoners by placing them in the cells of Fatah prisoners. Most of them severed their ties to ISIS. As mentioned, this is an exceptional case. See: I. Ilanai, "Black flag", *Yedioth Ahronoth weekend magazine*, May 6, 2022; J. Breiner, "The state does not rehabilitate security prisoners - nor does it want to try", *Haaretz*, April 1, 2022.

<sup>51</sup> Goldberg 45; B. Ganor and O. Phalk, "De-Radicalization in Israel's Prison System", *Studies in Conflict & Terrorism* 36 (2013): 116-131.

<sup>52</sup> Almagor web site [http://al-magor.com/?page\\_id=209](http://al-magor.com/?page_id=209)

<sup>53</sup> For a review, see: Bergman, *The State of Israel*, Ibid.

#### **4. Raising public awareness of the potential of releasing prisoners to promote peace.**

The Palestinian prisoner issue confronts Israel with various dilemmas. Implementation of the above recommendations is expected to prompt political and public opposition and will require an open discussion, professional backing from relevant bodies (such as the Shin Bet and IDF), and courageous leadership. In 2013, when Prime Minister Netanyahu decided to release prisoners as part of the US Secretary of State's efforts to renew negotiations, he published a letter to the Israeli public in which he admitted that the decision was painful, but argued that it was in the country's best interests.<sup>54</sup> This is an example of an attempt to hold a dialogue with the public on the issue. It is important for studies and articles in the media to present the issue of prisoners in its entirety, including cases of prisoners who have moderated their positions and supported peace.

Against the backdrop of the stagnation in the peace process and the paralysis in both the Israeli and the Palestinian political systems, it could take a severe crisis in the Palestinian arena to renew attempts at Israeli-Palestinian negotiations and perhaps rethink a role for Palestinian prisoners and ex-prisoners in its promotion. We should not wait for severe crises to prompt strategic thinking and implement measures that can advance peace today.

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<sup>54</sup> B. Ravid and J. Hogi, "Netanyahu on the release of the Palestinian prisoners: an important move for the country", *Haaretz*, July 28, 2013.