

Security Prisoners or Political Prisoners?

By Walid Daka¹

Arab prisoners – including Arab citizens of Israel such as myself – who have been convicted of offenses against the state's security and who are serving their sentences in prisons throughout Israel are generally classified as “security prisoners.” From my perspective, it would be more appropriate to classify them as “political prisoners.” This contention may appear outrageous, but only at first glance. After all, what differentiates these prisoners from other prisoners such as Yonah Avrushmi, who murdered Emil Greenzweig, the peace activist, or Yigal Amir, who murdered Prime Minister Yitzhak Rabin? The argument generally voiced is that Israeli citizens classified as “security prisoners” are not prisoners of conscience and not imprisoned for their declared beliefs; at least some of them have been convicted of murder.

I would like to address some of these publicly-held conceptions. Firstly, I would argue that Amir, Avrushmi and their like should not be considered “political prisoners.” Secondly, these conceptions are based on a false assumption that the proposal to amend the security classification of Arab prisoners emerged for the purpose of emphasizing the political motivations behind the offenses for which they were convicted. Thirdly, the factor which distinguishes prisoners like myself from those like Amir and Avrushmi is not rooted in the intent or objective behind the crimes perpetrated but, rather, in attitudes regarding security prisoners as displayed by various authorities.

The State of Israel discriminates between Arab and Jewish prisoners who have committed similar crimes on various levels: at their hearings or trials, in their conditions of incarceration and with regard to the probability of obtaining pardons. The racial discrimination which permeates Israel's democratic regime camouflages its harshest features and shrouds itself in two major dimensions of imprisonment – security and administrative needs. In every aspect of the treatment of prisoners, discrimination is cloaked in layers of concepts and practices intended to disguise the ugly truth; hence, the task of exposing it is difficult as each layer must be peeled away separately.

However, before turning to our task, we must clarify the issues to be addressed. Is it in the power of one or another definition to worsen the conditions of incarceration, to ease the difficulty of those conditions or to free those prisoners we are intent on releasing? My answer is: yes! We wish to replace the current legal definition with a political definition derived from not only a theoretical, evaluative stance but also a practical political position. The definition “security prisoner” was established by the security system, lead by the Israel Prison Service (IPS or *Shabas* in Hebrew). The concept evolved from the rather vague term “administrative” needs incorporated in an IPS directive, and given a new legal status in selected instances. This status currently justifies the more severe conditions of incarceration imposed on “security prisoners” as compared with “criminal prisoners.”

I begin with discrimination at the level of the prison confinement. The term “security prisoner” is apparently neutral and seems not to differentiate between the religious or national background of a prisoner. Around thirty years ago, however, when the IPS and the other parts of the security system began to apply this term in classifying

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prisoners, no Jewish "security prisoners" were to be found in Israeli jails. This fact prevented the term from being subjected to an objective examination regarding specific religious or national biases. The only contemporary exception was Udi Adiv, who was isolated from "criminal" prisoners and kept confined in the same conditions with Arab "security" prisoners. At the time, the IPS claimed that his separation from "criminal" inmates was undertaken solely in response to "administrative" needs. We should stress that, during this period, the distinctions in conditions of confinement applied to each category of prisoner, although all prisoners were held in the same cellblocks. Today, in contrast, security prisoners are confined in separate prisons under separate conditions.

In the intervening years, dozens of Jews have been convicted and sentenced for crimes committed with a national motivation. In the mid-1980s, members of the Jewish Underground were imprisoned; in the 1990s, Ami Popper, who shot to death seven Palestinian laborers seeking work in Rishon LeZion, and Yoram Skolnick, who murdered a handcuffed Palestinian arrested for suspicion of planning a terror attack, were handed life sentences. As we entered the twenty-first century, the activities of the Bat Ayin Underground were exposed. The IPS, like Israel's General Security Services (GSS or *Shabak* in Hebrew), views the entire group as criminal prisoners. Even though the Bat Ayin ring had committed crimes identical to those committed by the Arab "security" prisoners – they had undermined public and state security and had acted from identical national, religious or ideological motivations – and despite their membership in an illegal organization, these Jewish prisoners, who had committed terrorist acts against Arab citizens, were not classified as "security" prisoners but as "criminal" prisoners. Moreover, throughout their confinement, they continued to enjoy the same conditions or privileges enjoyed by "criminal" prisoners: they had daily telephone access, they received passes to leave the prison (e.g., furloughs), they were allowed open visits and conjugal visits, and they were able to father children.

The source of this differential treatment can be found in the pressure exerted by right-wing politicians together with the influence of rabbis who convinced the IPS and the GSS to treat Jewish prisoners with leniency. The trip taken by members of the Jewish Underground to the beach at Netanya escorted by IPS guards and officers effectively ended the illusion of uniformity regarding the referents of the term "security prisoner" and transformed it into a synonym for Arab inmates.

The inequity inherent in IPS practices does not end with the differentiation drawn between incarcerated Arabs and Jews; it is also manifested in discrimination between the victims of respective crimes. More precisely, during the entire existence of the State of Israel, no Jew convicted of murdering an Arab for national motives or of perpetrating a malicious act against Arabs has been defined as a "security prisoner." The message transmitted, unfortunately, is that a person who murders an Arab will be imprisoned under better conditions and will enjoy a more forgiving attitude on the part of the authorities than will a person who murders a Jew. The latter will be incarcerated under disgraceful conditions and denied any hope. Jewish blood, it appears, is worth more than Arab blood.

Although this conclusion may seem exaggerated, how else can we explain the fact that members of the Bat Ayin Underground were not classified as "security prisoners"? In September 2003, the ring's members left a child's buggy filled with explosives at the entrance to a school in Jerusalem's Tzur Bahar neighborhood, with the intention of murdering innocent Arab children. We should recall that the head of the GSS stated that the Bat Ayin Underground was among the most dangerous in existence, and that its members still maintained their extremist beliefs together with

the operational capacity and motivation to harm the innocent and blow up the Al-Aqsa Mosque, acts meant to provoke the threat of a war between Israel and an outraged Muslim world. Yet, the restrictions applied to Arab "security" prisoners were not applied in the case of these conspirators.

Similarly, how is it possible to explain the classification of Asher Weisgan as a "criminal prisoner" given his murder of four Arab laborers in the hope that his act would halt implementation of the Disengagement Plan? Consider yet another case, that of the three prisoners who were involved in the transport of a suicide bomber to Netanya: two of the offenders, Arab citizens of Israel, were classified as "security prisoners"; the third, a Jew, was effectively classified as a "criminal prisoner," even though, as stated in the indictment, he had played the critical role in the incident. How can these inequities be explained?

In practice, the IPS and the GSS, the bodies responsible for classifying prisoners, have assumed authorities which exceed their legal mandate. By differentiating between prisoners, they not only stipulate the definition of "security prisoner," but also define the substance of the state's security. The separation of prisoners who harmed Arabs from prisoners who have otherwise damaged the state's security essentially distances Arab citizens from the parameters of security. It is for this explicit reason that Jews convicted of harming Arabs are not defined as "security prisoners."

Yigal Amir's classification as a "security prisoner" might be viewed as invalidating my previous claims; yet, examination of the case actually strengthens my argument regarding the effect of religion and the victim's, as well as the perpetrator's, national identity on the conditions of incarceration. Amir was classified as a "security prisoner" on the basis of his victim's religion: Jewish. However, he benefits from the conditions granted to criminals based on the murderer's nationality – Israeli Jew. He enjoys improved conditions such as weekly visits without a dividing barrier and daily three-hour telephone calls. "Security" prisoners do not dare even to dream of such conditions.

Until this point, I have discussed the racial and political discrimination within Israel's prison facilities. This discrimination is, however, expressed at two additional levels: trials and pardons. With respect to trials, discrimination becomes apparent in the venues of trials as well as in the severity of the sentences meted out. Until 1996, Arab citizens of Israel accused of security offences were tried in military courts. Not one Jew suspected of a crime against an Arab has ever stood trial in these courts. Military hearings, as is well known, are more difficult than civilian hearings. The prosecution and judicial system together viewed the offenses committed by Arabs against a background of national or political motives as offenses against state security. Offenses committed by Jews against Arabs, even if undertaken with the same type of motives, were considered standard criminal offenses. In general, when an offense was committed by an Arab in the Occupied Territories, the trial was held in the court located in the region in which the offense occurred: Nablus, Jenin, Hebron, etc. Jewish citizens of Israel, however, such as the members of the Jewish Underground, whose members also committed their crimes in the Occupied Territories, were tried in civilian courts within Israel proper. In other words, two judicial systems were in effect operating: a military system for Arabs and a civilian system for Jews. The military courts handed down harsher sentences, representing precedents in their severity.

If the preceding discussion regarding conditions of incarceration and trials is inadequate to demonstrate the political foundations for the discriminatory definition of

“security” prisoners, a discussion of pardons, the third level, should convince the Israeli authorities that the issue warrants an in-depth inquiry at the very least. Within the institutional framework of pardons, the President of the State of Israel plays the decisive role. The attitude displayed by Israel’s presidents towards Arab prisoners indicates much about the discrimination inherent in this classification. In 1998, then-President Ezer Weizman decided to reduce the sentence of several prisoners, Arabs and Jews, on the same day. While Weizman resolutely refused to pardon any of the veteran prisoners whose victims had been Jews, he reduced Ami Popper’s sentence from seven consecutive life sentences plus 20 years to a total of only 40 years.

In order to “balance” his decision, Weizman reduced the sentences of two Arab prisoners from life to 30 years, even though these prisoners had been convicted a relatively short time earlier. The prisoners had not murdered Jews, but Arabs who had collaborated with the Jewish authorities. Within the context of the same decision, a third Arab prisoner’s sentence was reduced; this prisoner had injured a Jew and been given a life sentence for his offense. His sentence, reduced to 40 years, was equal in length to that of Ami Popper’s reduced sentence. Weizman’s “clemency” in these cases clearly substantiates the argument that the supposedly apolitical institution of the presidency subscribes to the belief that Arab blood is worth less.

I wish to conclude with comments made by Carmi Gilon, the former head of the GSS, in his book *Shabak Between the Tears* (2000, Hebrew). Gilon relates to the extreme pressures directed at the political and professional levels by the right wing and its rabbinical supporters in order to expedite the release of members of the Jewish Underground:

For me, the special treatment received by prisoners belonging to the Underground, as well as the formidable political lobby constructed for their benefit, was most instructive for demonstrating how a mockery is made of the law... I have always maintained and continue to believe that the law must be applied equally to everyone. Especially in a country like Israel, whose existence is characterized by pressure... the equality of citizens before the law is essential. Does one law apply to all, or are there prisoners who, because of orders transmitted from above, are allowed to visit the seashore?... This event infuriated me... I believe that the pardons granted to the Jewish Underground prepared the groundwork for Oren Edri’s actions [Edri, an IDF officer, was charged with involvement in a Jewish terrorist organization]... the forgiving attitudes instilled in the public mind will lead to a radicalization ending Heaven knows where.