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THE MITIGATING
POTENTIAL OF PRIVATE
ACTORS IN CONFLICT
NEGOTIATION

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The Hurting Way Out: group cohesion and the mitigating potential of private actors in conflict negotiation¹

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Abstract

According to William Zartman the elements necessary for a ripe moment are a Way Out and a Mutually Hurting Stalemate. This paper further develops ripeness theory by taking a closer look at these two conditions of ripeness. It finds that the two necessary elements of ripeness – Way Out and Mutually Hurting Stalemate – constrain each other. If there is a generous offer for a Way Out, the Mutually Hurting Stalemate will not be reached by all factions of a conflict party simultaneously. If the Way Out is not very far-reaching, it is more likely that a Mutually Hurting Stalemate is commonly perceived by all factions.

In order to determine what can be done to exit this intricate relationship between Way Out and Mutually Hurting Stalemate and to bring a ripe moment about, this paper looks at the role that states and private actors can play in enhancing the negotiation willingness of non-state armed groups. The peace efforts by Ehud Olmert and the Carter Initiative in 2008, and the Road Map and the Geneva Initiative in 2003 serve as an illustration that private actors can play a key role in bringing ripeness about.

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1. Introduction: the intractability of conflict in the Middle East

When asked “what can the Israelis do to encourage the negotiation willingness of the Palestinians,” former prime minister of Israel Ehud Olmert replied during a talk at the Center for Transatlantic Relations at the School of Advanced International Studies of the Johns Hopkins University:

“Expressing your willingness to negotiate yourself. Lately I have not seen an expression of the will to negotiate by my own government. The whole idea that ‘let’s sit down without preconditions and talk about everything’. This was twenty-five or thirty years ago. A lot of things have happened, a lot of agreements.” (Olmert 2012)

As Olmert points out, efforts to solve the Israeli-Palestinian conflict through diplomatic means have been going on for over three decades. By means of multiple proposals, multiple actors have sought to bring peace to a protracted conflict over competing territorial claims and national identities. From the Madrid Conference in 1991 to the Road Map in 2003 to the Israel-Hamas ceasefire in 2008 and the revival of direct talks in 2010, peace efforts did not result in conflict termination.

It is puzzling that, in spite of the multiplicity in negotiation efforts, Israelis and Palestinians are currently not close to a peace agreement. Is it realistic to assume that over half a century of continuous conflict has never yielded a moment of negotiation ripeness on both sides? According to William Zartman, such a moment of ripeness is required for the onset of negotiation. The elements necessary for a ripe moment, as defined by Zartman, are a Way Out and a Mutually Hurting Stalemate: “(...) when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them (...), they seek an alternative policy or Way Out” (Zartman 2001: 8).

Has a ripe moment never been reached in the Israeli-Palestinian conflict? Three decades of conflict resolution efforts not only provided abundant wealth of negotiation experiences but also multiple situations in which the conflict parties came close to an agreement. Several ways out have been offered and it seems almost inconceivable that the frustration with the conflict dynamics has never led to a situation of simultaneous Mutually Hurting Stalemates.

Additionally, it is important to note that according to Zartman the concept of ripeness is not tautological, it is not “self-fulfilling or self-implementing. It must be seized, either directly by the parties or, if not, through the persuasion of a mediator. Thus, it is not identical to its results (...)” (Zartman 2001: 9). So the question has another dimension as well: If we assume that the long history of the Middle East conflict must have yielded in ripe moments for successful negotiations, the question arises whether not only the conflict parties, Israel and Palestine, but also the third-party negotiators and mediators, the US, the Middle East Quartet, and multiple NGOs, all failed to seize them. Ways out offered by the conflicting parties have been abundant and might have concurred with the frustration about the conflict and hence Hurting Stalemates on both sides.

For ripeness theory this poses several challenges. If ripeness is not a tautological concept it is possible to further develop its assumptions. If moments of ripeness seem to occur so rarely or are so rarely seized it is necessary to question its conceptual notions and develop insights that come closer to the reality of persisting conflict. This paper further develops the concept of ripeness. It explains why ripe moments are so difficult to reach by exposing the problematic interaction of the two key elements of ripeness: Way Out and Mutually Hurting Stalemate. In order to understand the

intricate relationship between Way Out and Mutually Hurting Stalemate it is necessary to look at what happens inside the conflict actor and to take account of the element of cohesion. This element is decisive because actors are not unitary and multiple Hurting Stalemates are perceived by different factions on each side. The next section will explain how cohesion becomes a necessary factor for ripeness. Section three then explores how private actors have been in the unique position in the past to mitigate the counterproductive effect of (a lack of) cohesion and contribute to progress in the negotiations. The final fourth section will conclude the paper outlining the key findings.

2. Cohesion as a Necessary Factor for Ripeness

According to William Zartman, a moment of ripeness is required for the onset of negotiation. The elements necessary for a ripe moment, as defined by Zartman, are a Way Out and a Mutually Hurting Stalemate. If only one of the two elements is given, ripeness cannot be reached. Although the Way Out and a Hurting Stalemate need to come hand in hand, their simultaneous occurrence is difficult to achieve. The more generous the offered Way Out the less likely is a commonly perceived Mutually Hurting Stalemate. The less far-reaching the offered Way Out the more likely is a commonly perceived Mutually Hurting Stalemate. This complication, which is immanent to the two elements of the ripeness concept, explains why various negotiation attempts did not bear fruit in the Middle East. The more Israel tries to convince the Palestinians of peace, the more the Palestinians seem to resist a negotiated solution. The opposite also holds true. The less Israel offers the more Palestinians seem to flog together in considering a negotiated solution.

At first sight, this finding appears counter-intuitive. Why should the Palestinians not be grateful and accepting of a generous peace offer? The deal proposed by Ehud Olmert in 2008 was especially promising and entailed a peace offer that he expected would be greatly welcomed by the Palestinians. Nevertheless, Abu Mazen maybe never said no, but he also never said yes.

At second sight, the intricate relationship between a Way Out and a Hurting Stalemate can be explained if we shift the focus to the internal dynamics among the Palestinians.

Daniel Lieberfeld questions the utility of the ripeness concept and points out that “ripeness propositions also share political realism’s tendency to view actors as unitary (...)” (Lieberfeld 1999: 64). Zartman’s theory can be expanded if we break up the unitary actor and take a closer look at what happens inside the conflicting parties. However, Zartman himself acknowledges the limitations of the black-box perspective and asserts that “important refinements carry the theory to a second level of questions about the effects of each side’s pluralized politics” (Zartman 2000: 235). Concurrently, rather than a critique of Zartman’s ripeness theory, this paper attempts to build upon and expand the theory.

Specifically, while Lieberfeld investigates elements such as change of leadership, this paper shifts the focus to the cohesion of the conflict actors: How is the offered Way Out perceived by the different factions of the reacting conflict party?

In an asymmetric conflict, the stronger side is commonly advised to send clear signals that it is negotiating from a position of strength: “[P]eace overtures must be well-timed. Ideally they should come at a time when the government is strong and the terrorist organization is undergoing a period of introspection” (Alterman et al. 1999: 1). Simultaneously, however, the weaker side is equally interested to negotiate from a position of strength (Al-Hashimi and Goerzig 2011). Importantly, an

actor's position of strength is relational. The relationship between the conflicting parties matters especially in times of negotiations. Conclusively, the matter of strength and weakness becomes more complex, both strength as well as weakness can become the Achilles heel of negotiations. If one party signals weakness the other side automatically perceives itself to be in the upper hand: "[O]ne side's willingness to talk encourages its adversary to resist doing so, given that the first party appears to be yielding" (Lieberfeld 1999: 63). In such a scenario the adversary assumes that it can ask for even more given the weakness of the "yielding" party. As Olmert states, "if you want to start negotiations you have to be convinced that the other side is committed to breakthrough (...). Once you spell it out there is no way back" (Olmert 2012). In a way, publicising a peace proposal equals a *fait accompli*. The complication that the other side might not be committed to break through makes it especially difficult for Israel to offer a Way Out in the first place.

Why precisely, then, are the Palestinians not committed to breakthrough given that they are aware of Israel's strength and the asymmetric nature of the unequal Middle East conflict? In order to account for counterintuitive reactions, we need to consider the internal dynamics among the Palestinians. When we stop black boxing the actor we conceive as unitary we quickly realise that there are multiple perceived Hurting Stalemates on each side of the conflict. Taking a closer look at the internal composition of warring actors reveals that the different parties on each side to the conflict have different stakes in conflict termination. They perceive the Way Out offered by the other side in different ways and they do not necessarily reach a moment of a Hurting Stalemate at the same time. Moreover, the Way Out offered acts as to prevent the emergence of a Hurting Stalemate. The more generous the offered Way Out by Israel, the higher the danger of spoilers among the Palestinians. In fact, a generous peace offer makes a commonly perceived Hurting Stalemate impossible to reach. This is the case because factions among the conflict party often compete and everybody wants a stake in a promising peace agreement. The better the offer, the stronger is the resistance to it by factions that are excluded from the peace deal. These factions are excluded from negotiation benefits, such as recognition among the population. Furthermore, a peace agreement will manifest the power position of the negotiating parties. Excluded factions can hence come to act as negotiation spoilers. As Stephen Stedman notes, "peace creates spoilers because it is rare in civil wars for all leaders and factions to see peace as beneficial. Even if all parties come to value peace, they rarely do so simultaneously, and they often strongly disagree over the terms of an acceptable peace" (Stedman 1997: 7). Moreover, as Wendy Pearlman has argued, factions act as peace breakers in order to improve their position in an internal balance of power (Pearlman 2009). If parties to a conflict are excluded from the peace negotiations they frequently come to spoil a potential agreement, especially if it disadvantages their position in the balance of power. This perception of disadvantage is elevated if the peace deal seems to be very promising. The more generous the offer the more interested are all parties to the conflict to benefit from it. Each conflict party wants to sell the attractive peace deal to its constituency and will fight an agreement if it is excluded. The higher the expectations regarding the peace offer, the higher is the danger of spoiling behaviour. This is the case because the potential spoiler will realistically estimate its chances of inclusion depending on its perception of the peace offering actor to be yielding. A generous Way Out will increase expectations and the perception of the peace offering actor to be yielding. Accepting a beneficial peace without sitting at the table implies risking the loss of support and followers. Consequentially, the excluded party will undermine the peace deal to

weaken its competitor. Jannie Lilja describes this process of “outbidding”, a mechanism to eliminate competitors:

“[F]actions within the nonstate camp use nonconciliatory deed and discourse to convince the constituents that they have greater resolve than other factions and therefore are worthy of support. The government is portrayed as the aggressor, nonstate actors calling for compromise are branded as traitors, and moderates are sidestepped, silenced, threatened, or even killed.” (Lilja 2012: 128)

When we take a closer look at the internal composition of warring actors it becomes clear that different parties to the conflict on one side have different stakes in conflict termination. They perceive the Way Out offered by the other side in different ways and they do not necessarily reach a moment of a Hurting Stalemate at the same time. While Fatah might perceive a Hurting Stalemate and is willing to accept the Way Out offered by Israel, Hamas – excluded from the peace efforts – will act to undermine the potentially attractive peace deal. The more generous the Way Out offered by Israel, the more dissent can Israel expect on the Palestinian side. Hamas sees Israel yielding and is convinced that more is possible on the Israeli side. It will hence act to prevent peace as long as it remains excluded. The offered Way Out becomes a double obstacle for the perception of a Hurting Stalemate by Hamas. The more generous the offer, the more will Hamas undermine it if it remains excluded and if it is unable to benefit from it, especially in terms of its own constituency. Additionally, a generous offer will convince Hamas that more is possible on the yielding Israeli side. It raises expectations. Hamas asked for a referendum regarding the peace offer by Olmert, therewith stretching the patience of the Israelis.

The existence of multiple actors on each side implies that there are multiple Hurting Stalemates that are perceived. Only if all Palestinian parties come to perceive a Hurting Stalemate simultaneously and only if Israel offers a Way Out at the same time will peace become a possibility. However, the more generous the offered Way Out the less likely a Hurting Stalemate perceived by all Palestinians will be. Instead, they will compete over the offer. As the first case reveals, this argument can be turned on its head. When the offered Way Out is not very far-reaching and is almost non-acceptable to the reacting conflict actor, the cohesion among the actor tends to increase. The factions within that actor unite against the enemy and fight together. They perceive the costs of the conflict and instead of competing with each other they flog together and are more likely to commonly perceive a Hurting Stalemate. Referring to the reaction by the American population to its president in times of international war, John Mueller describes the “rally around the flag” effect: The government becomes more popular when it faces international crises (Mueller 1970). The increase in cohesion among the population in times of crises holds true for Palestinians as well. Palestinians unite against Israel and fight together. They perceive the costs of the conflict and instead of competing with each other they unite and are more likely to commonly perceive a Hurting Stalemate. That explains why the Palestinians were ready to compromise with Israel during the Road Map efforts and the Geneva Initiative in spite of Israel’s limited willingness to compromise.

If this argument holds true, the two assumptions of ripeness theory – the Way Out and the (Mutually) Hurting Stalemate – constrain each other. If there is a generous Way Out, the Mutually Hurting Stalemate will not be reached by all factions simultaneously. If the Way Out is not very far-reaching it is more likely that a Mutually Hurting Stalemate is commonly perceived by all

factions. Or put differently, a generous offer will constrain cohesion for seizing the opportunity, a poor offer will increase cohesion against seizing the opportunity. This intricate relationship between Way Out and Hurting Stalemate explains why a moment of ripeness is almost never reached. The reason the Middle East is still far from conflict resolution lies in the difficulty of the emergence of a ripe moment. If the ripe moment is so difficult or nearly impossible to reach, the intervention of external actors becomes crucial. In fact, without the intervention by external actors a ripe moment might never be reached. Zartman himself asserted that “ripening may involve a much more active engagement of the mediator” (Zartmann 2000: 244). Specifically, if the two conditions of a ripe moment constrain each other but are as yet necessary to bring a ripe moment about, third party intervention becomes crucial: But how can third parties mitigate the complications that arise when a Way Out constrains the emergence of a Hurting Stalemate? In order to answer this question it is beneficial to take a look at the role that private actors and NGOs can play in enhancing the negotiation willingness of non-state armed groups. The relations between states and non-state armed groups can be especially helpful to change certain factors conducive to ripeness – for example the reality of a Way Out – because states have the means to change the conflict dynamics and credibly show a Way Out by signalling their negotiation willingness. However, state actors are less capable of contributing to the other element of ripeness of the non-state armed group: their perception of a Hurting Stalemate. This is where private actors and NGOs may have the capacity to fill the gap.

The following section will explore the second main argument of the paper, seeking to answer the question how private actors and NGOs can balance the mutually constraining effects of a Way Out and a Hurting Stalemate. Specifically, this paper asks which role private actors and NGOs can play in enhancing the negotiation willingness of non-state armed groups.

3. The Mitigating Effects of Private Actors

Examining instances of negotiation between the Israeli and Palestinian parties to the Middle East conflict demonstrates the impact private actors and NGOs can have on the negotiations process. Take for instance the negotiated 2003 Road Map for Peace. Very fundamentally, the reactions to the Road Map were different on the Israeli and the Palestinian side. When U.N. Secretary General Kofi Annan announced the Quartet on the Middle East’s plan for a resolution of the Israeli-Palestinian conflict in April 2003, both parties to the conflict – Israel and Palestine – accepted the plan, but with reservations. The Road Map’s plan for peace required the parties to take initial steps in the peace process without having resolved issues in the conflict that were particularly critical to the Palestinians, such as the question of Palestinian refugees, borders, settlements, the status of Jerusalem, and water issues (Knesset 2003a). The strong support of the U.S. government had assisted the Israeli government in negotiating from a position of strength that overwrote any possible Hurting Stalemate (Knesset 2003b). Conversely, considering the political climate at the time, especially with the U.S. almost unconditionally supporting Israel as its ally in the “war on terror”, the Palestinian authorities felt that accepting the Road Map was their only option despite the insecurities and potential for being undermined by an Israeli-U.S. alliance (Dean 2004: 40).

The difference in positions towards the Road Map meant that the commitment to it, especially on the Palestinian side, could not be maintained. Concurrently, as it became clear that the Road Map would not secure a full Israeli withdrawal from the Occupied Territories and a right to return for

Palestinian refugees, the Palestinians finally abandoned Abbas' more moderate, negotiated course and reunited behind Arafat and the Intifada. In the absence of a peace offer by Israel that would have been acceptable, the Palestinians rallied round the flag and committed themselves to national unity. The lack of an acceptable Way Out increased the cohesion among the Palestinians. A critical mass of Palestinians perceived that the Way Out of the conflict that was offered by the Quartet's Road Map for Peace had not been substantiated by Israel and, accordingly, the negotiation willingness that both Arafat and Abbas had initially demonstrated waned. Instead, Palestinians retreated to the alternative, a continuation of fighting, as a viable option to win the conflict: Islamist leftist PLO factions soon reaffirmed their commitment to national unity, the Intifada, and the resistance, and Hamas relinquished Abbas' June 2003 cease-fire in August 2003. In response, the Israeli government suspended all contacts with Palestinian officials in September 2003 and increased its attacks on the Palestinian territories. The measures taken by the Israeli government in response to the Road Map and the degree to which it maintained its suppression of the Second Intifada indicated that no agreement that would accommodate Palestinian concerns and preferences could flourish in this environment. Accordingly, while the Palestinian side had successfully been pressured into negotiation ripeness by international actors in particular, the lack of commitment by the Israelis led to the abandonment of the more moderate course that had characterised Palestinian politics prior to the launch of the Road Map, and a return to an increasing support for the Intifada, despite the considerable hurt on the Palestinian side that otherwise should have led to the desire to come to an agreement with the Israelis.

In this environment, the 2003 Geneva Initiative refuted the common claim that there is no one on the Palestinian side that officials could negotiate with on a constructive level. To maintain the momentum that the Taba Summit and the Clinton Plan had created among the negotiators of both sides in 2001, the Geneva Initiative was established as an unofficial approach to continue the peace talks. Initiated by a private individual, Prof. Alexis Keller of the University of Geneva, the negotiating teams were led by Yossi Beilin, former Israeli Minister of Justice, and Yasser Abed Rabbo, PLO Executive Committee member and former Minister of Information and Culture in the Palestinian National Authority. They were joined by members of the Israeli opposition and Palestinian officials, and supported by prominent individuals from a diverse range of backgrounds. The negotiations took place over two years in secret meetings, and a final draft was concluded in October 2003 and published in December 2003. Its main concepts comprise:

- the mutual recognition of the State of Israel and the Palestinian state;
- an agreed border between the two states marked on a detailed map; the agreement rests on a hand-over of land from Israel to Palestine in return for the annexation of land beyond the 1967 borders, where Jewish settlements are to be incorporated into the sovereign territory of Israel; the alternative lands handed over must be of equal quality and quantity;
- the mutual recognition of Jerusalem as the capital of both states, whereas the Jewish neighbourhoods in Jerusalem will be placed under Israeli sovereignty, and the Arab neighbourhoods will be placed under Palestinian sovereignty;
- the establishment of an Implementation and Verification Group (IVG) to “facilitate, assist in, guarantee, monitor, and resolve disputes relating to the implementation of the agreement;”

- the entitlement of Palestinian refugees to compensation for their loss of property and the right to return to the Palestinian state; and
- the mutual recognition of the other's right to live in secure and recognised boundaries, free from terrorism and violence; Palestine would become a demilitarised state, with a strong security force (The Geneva Accord 2003)

While the Geneva Initiative was not in a position (and neither was it designed) to save the Road Map, it not only avoided hostilities between Palestinian and Israeli negotiation teams, especially during the Intifada, but also addressed issues that were excluded from the Road Map. The process resulted in a detailed draft agreement that was received positively by the Israeli and Palestinian publics.³ And while the Road Map has become the officially endorsed framework for the peace process in the Middle East, the Geneva Initiative still receives support from two cooperating NGOs – Heskem on the Israeli side, and the Palestine Peace Coalition (PPC) on the Palestinian side. The intervention of a private actor through the Geneva Initiative created a setting in which agreement could be found and cohesion, especially on the Palestinian side, could be maintained.

It had been the hope of the negotiation participants that strong public agreement with the Geneva Accord would put enough pressure on the parties that negotiations on its basis would resume. Israel, however, failed to demonstrate the necessary commitment. Sharon denounced the Geneva Accord as a threat to Israel's existence and went so far as to criticise the Jewish authors of the accord as collaborators with terrorists (McGreal 2003). Israel dismissed the proposal entirely and left the Palestinian side with the certainty that Israel would not commit. On the Palestinian side, public opinion was dominated by a reluctance to abandon territory that would become part of Israel. Accordingly, Arafat sent representatives to the signing ceremony to support the plan but refrained from actually endorsing it. Arguably, Arafat could have been persuaded to support the plan if he had thought Israel to be serious about negotiations on its basis (McGreal 2003). Accordingly, Arafat's perception of the Accord was positive but could not be reinforced by commitment on the Israeli side. This knowledge negated any aspirations that the Palestinians may have harboured for the proposal, preventing Arafat from endorsing the final text. Lacking this, the Geneva Accord remained nothing more than an academic exercise.

By 2006, the biggest obstacle to proceeding with serious negotiations was the separation of Hamas and Gaza from the remainder of the Palestinian territory. It was assumed on both sides, by Fatah and Hamas, that an agreement with the Israelis forgoing Palestinian unity would be unsustainable. But by 2008, relations between Fatah and Hamas had escalated beyond rational preconditions as each side accused the other of plotting to kill their key leaders (International Crisis Group 2008: 29). Instead, Hamas's recourse to attacks would most likely impede and disrupt any peace talks between the Palestinians and Israel, convey the divide between Hamas and Fatah, and emphasise Hamas's unwillingness to negotiate. Accordingly, Abbas found himself in a position where his own willingness to negotiate was challenged by Hamas's diverging perception on the appropriate Way Out of the conflict.

³ The full text of the agreement can be found at The Geneva Accord. A Model Israeli-Palestinian Peace Agreement, Draft Permanent Status Agreement, Geneva Initiative Homepage, <http://www.geneva-accord.org/mainmenu/english>; detailed maps on land distribution can be found at Static Maps, Geneva Initiative Homepage, <http://www.geneva-accord.org/mainmenu/static-maps/>.

In September 2008, Ehud Olmert presented a far-reaching peace plan to Mahmoud Abbas, based on several conversations between the two personally and their representatives, respectively. After the final, very generous, iteration of the peace plan had been presented to Mahmoud Abbas, who neither endorsed nor rejected the offer. Olmert explains, “[w]hen I proposed my agreement to Abu Mazen he never said no, but he never said yes” (Olmert 2012). A recently leaked memo confirms that Olmert’s offer was not explicitly endorsed or rejected by the negotiation support unit at the time (Carlstrom 2011).

On the Israeli side, Olmert lacked understanding for the absence of a response from Abbas. “It would have been the best possible solution to the conflict. (...) I gave everything that the Palestinians wanted. I proposed it to Abu Mazen. I was very excited” (Olmert 2012). In his view, Olmert had developed and presented a viable solution to the conflict in consultation with Abbas. On the Palestinian side, while Abbas saw Olmert’s offer as a “deposit for peace”, several factors impeded an agreement at the time (Carter 2009: 151). Internally, the outstanding agreement with Hamas and other factions left Abbas in a difficult position to negotiate an agreement on behalf of both Palestinian territories, West Bank and Gaza. The continued violence between the Israeli military and Palestinian militants in the Gaza Strip, and the Israeli expansion of settlements despite the obligations agreed on in Annapolis, undermined the trust in Israel’s promises. And internationally, particularly the United States’ quiescence regarding crucial issues (such as settlements, travel restraints, checkpoints, and the withholding of Palestinian funds), further undermined Abbas’ internal authority. Correspondingly, Abbas’ control and influence over the different Palestinian currents and factions was not sufficient to convince them that Olmert’s peace plan presented a viable Way Out of the conflict. Instead, Abbas found himself in a conflict where, on the one hand, the offer made by Olmert represented an attractive offer of peace, and, on the other hand, the negative repercussions of internal resistance became a negative influence. The offer was never decided on and the *mêlée* prevailed.

When presented with Olmert’s peace plan, Abbas contends that “the talks produced more ‘creative ideas’ than any in the past.” (Avishai 2011) However, generating objective solutions to the contested issues was not sufficient to finalise a peace agreement. Instead, the diverging perceptions on the Palestinian side about the appropriate Way Out of the conflict impeded a decision on Olmert’s proposal. For Abbas, accepting Olmert’s offer entailed an increased risk of permanently dividing the Palestinian people. Hamas had stated repeatedly that it refused to renounce violence, to explicitly recognise Israel’s right to exist, and to recognise previous peace accords. It would not accept a two state solution that would be a result of Olmert’s peace plan and maintain its armed resistance against the Israeli state. A peace agreement between Israel and a unified Palestinian people would not be sustainable on this basis. Accordingly, the Way Out presented by Olmert put Abbas in a tense situation between the virtue of the peace plan and an aversion to the risks contained.

How can Abbas’ reaction to the comprehensive peace offer be explained? The explanation for Abbas’ hesitance can be found looking at Palestine’s internal situation. The separation of Gaza from the remainder of the Palestinian territory marked the main obstacle to negotiations with the Israelis. If Abbas would have accepted the peace offer, Hamas would have demonstrated outbidding behaviour. Therewith, Hamas would have done everything to undermine any agreement and depict Fatah as traitors to the Palestinian cause. Although Olmert was certain that “we can convince everyone else later” (Olmert 2012), his peace plan was not accepted by all Palestinians

equally. Instead, Abbas had good reason to believe that Hamas would have spoiled a potential peace process with violence. The different Palestinian actors did not perceive a Hurting Stalemate at the same time. Hamas expected more from the Israelis – its own inclusion in the peace process. The generous offer by Olmert only contributed to the awakening of further aspirations by Hamas.

In this context, former U.S. President Jimmy Carter travelled to the Middle East in mid-April 2008 to meet with President Shimon Peres, and Deputy Prime Minister and Minister of Industry and Trade Eli Yishai, the only member of the Israeli cabinet who had agreed to meet with Carter during his trip. The goal of these initial consultations was to achieve an understanding of the current situation and the mood within the country, but the focus of Carter's travels was on the role of Hamas in any peace negotiations with Israel. Carter explains, "peace is not sustainable unless a way can be found to ensure that Hamas will not disrupt the peace process" (Carter 2009: 136).

In Cairo, Egypt, Carter met with Mahmoud al-Zahar, Said Seyam, and Ahmed Yousef to discuss a cease-fire in Gaza, the exchange of prisoners, a reconciliation with Fatah, and elections in the Palestinian territories. Carter also met with Khaled Mashal and other leaders in the Hamas political bureau in Damascus, Syria, to additionally discuss the reduction of tension and progress in the peace talks (Carter 2009: 133). After some internal consultation following the talks, Mashal gave a press conference in Damascus, summarising his responses to the meeting with Carter. He agreed to accept a peace agreement between Abbas and Israel based on the pre-1967 borders under the condition that the agreement would subsequently be approved by the Palestinian population in a referendum or a democratic election. He reaffirmed his view that, for representative democratic Palestinian elections to take place, Fatah and Hamas had to reconcile under the umbrella of the Palestine Liberation Organization (PLO) (Bronner 2008). Additionally, Mashal agreed to honour a cease-fire limited to Gaza that would provide for the delivery of more supplies into the area. Indeed, in the direct aftermath of the meetings between Carter and Hamas, a cease-fire was initiated in June 2008 under Egyptian auspices that would last for six months, decrease violence noticeably (even if it never entirely ceased), and allow for commerce to gain ground again (Kershner 2008). Moreover, Hamas delivered a letter from Corporal Gilad Shalit to the Carter Center's office in Ramallah, placating Israel in a matter of great public concern (Khoury 2010).

During the meetings with Hamas, Carter had addressed two main obstacles to a peace agreement with Israel. By problematising the status of Hamas in a potential peace agreement, he was able to clarify Hamas's position on a rapprochement with Fatah. Carter's impression after the meetings was that Hamas leaders "accept him [Abbas] as head of the PLO and president of the Palestinian Authority and therefore spokesman for all Palestinians", and are "prepared for unconditional talks with Fatah" (Carter 2009: 139–140). Additionally, the decision on a cease-fire in Gaza and the delivery of Shalit's letter eased some of the tension between Israel and Hamas. Rather than focussing on the bargaining processes that constitute the give and take of a peace negotiation, Carter addressed the internal situation among the Palestinians which prevented Abbas from committing to an agreement with Olmert.

The non-official intervention by Jimmy Carter addressed this tension by responding to the risk factors that impeded a decision on Olmert's proposal: Hamas and its relationship with Israel. As a private actor not bound by the constraints that state actors encounter in conflict, Carter was able to engage Hamas on the contested issues, discuss positions, and press for a solution in an attempt to decrease their capacity for spoiling and ease the pressure on Abbas. While the effort did not lead to an eventual signing of a peace treaty, it did contribute to progress on the issue of a two state

solution on the basis of the pre-1967 borders and on an explication of Hamas's position on a rapprochement with Fatah. In November 2008, Hamas and Fatah resumed talks on a unity government after 21 months of deadlock, and in July 2009, Khaled Mashal explained that Hamas along with other Palestinian factions had "agreed upon accepting a Palestinian state on the 1967 lines" (Solomon and Barnes-Decay 2009). As such, Carter's intervention worked on creating matching Hurting Stalemates for both Fatah and Hamas that would enable both factions to accept Olmert's Way Out.

In this situation, Jimmy Carter's trip to the Middle East contributed to change the internal dynamics of the Palestinians. Accordingly, Carter focused on the role of Hamas – convinced that peace would not be sustainable without it. He met with several Hamas officials in Egypt and Syria and managed to change their position. Khaled Meshal announced that he accepted a peace agreement between Abbas and Israel given that the agreement would subsequently be approved by the Palestinians in a referendum or an election. Fatah and Hamas would have to reconcile under the umbrella of the PLO. Additionally, a ceasefire was initiated and a letter by Gilad Shalit was delivered.

As these reactions demonstrate, Hamas was willing to abide by a potential peace agreement as long as it would be included. Asking for a referendum or an election clarifies that Hamas asked for a stake in the peace process. Including Hamas would hence contribute to prevent their spoiling behaviour. After Carter's efforts, Hamas accepted an agreement based on the 1967 borders. Carter achieved to establish certain cohesion among the Palestinians and to build Palestinian unity. In this manner, a situation of a Hurting Stalemate and the perception that nothing more can be achieved through violence could be established not only regarding Fatah but also Hamas. Once Hamas would no longer be the loser of a peace deal, they were ready to compromise and realise that they could not achieve additional benefits through violence.

4. Conclusion: the complicated interplay between ripeness, Mutually Hurting Stalemates, cohesion, and private actors

While in the first instance the lack of a Way Out offered by Israel concurred with a Hurting Stalemate on the Palestinian side, in the second case a generous Way Out offered by Israel concurred with the lack of a Hurting Stalemate on the Palestinian side. The two elements of ripeness – Way Out and Hurting Stalemate – do not come hand in hand but constrain each other. This is the reason why a ripe moment is so difficult to reach and why third-party intervention becomes necessary. In both examples, a third party intervened – Alexis Keller with his Geneva Initiative in the first case and Jimmy Carter in the second case. In both cases, the nongovernmental institutions and individuals contributed to cohesion and negotiation ripeness on the Palestinian side. However, the element of a Way Out is equally decisive. A perceived Hurting Stalemate leads nowhere when an acceptable peace offer does not come along with it. In fact, increased cohesion can yield more violence if a Way Out is lacking as evidenced in the Palestinians rallying around Abbas and the Intifada. In this case, the intervention by a private actor might even make things worse because it can contribute to raising unrealistic expectations as the first case revealed. In the second example, the intervention by Jimmy Carter reduced the expectations of Hamas and simultaneously included them in peace considerations. Private actors and NGOs had a double effect on the Palestinians: They influenced their expectations and hence the perception of whether

Israel is yielding or not, and they influenced their cohesion. In this manner, private actors and NGOs can act to balance a Way Out and a Hurting Stalemate, but they can also act to increase the difficulty of balancing the two elements of the ripeness equation.

In the first example, Palestinians united against the enemy. The non-governmental efforts by Alexis Keller – the Geneva Initiative – only helped to increase expectations on the Palestinian side, especially because the Geneva Initiative included further concessions to the Palestinians than the Road Map. In the second example, Fatah and Hamas were divided over the generous peace offer made by Olmert. The visit by Jimmy Carter not only helped to reconcile the Palestinians but also convinced Hamas to accept a peace agreement with Israel.

Lacking an acceptable Way Out offered by Israel, the involvement of private actors and NGOs raises expectations on the Palestinian side. Conversely, when a generous peace offer is made the involvement by private actors and NGOs diminishes expectations on the Palestinian side. This is due to several dynamics that are characteristic of the interaction between armed actors and private actors in contrast to their interaction with states. Non-state actors gain more recognition when negotiating with states. If a Way Out offered by the state exists, the involvement of private actors and NGOs reduces expectations because the private actor is less powerful than the state and has only limited capacity to influence the Way Out offered by the state. The private actor hence acts to balance a generous peace offer. In turn, in times of sticks employed by the state, the involvement of private actors and NGOs raises expectations. This is the case because the private actor gives some recognition in absence of a state's offer of a Way Out. Additionally, private actors and NGOs empower the armed actor because they have no ability to sanction and because the private actor may become instrumentalised. Hence, the armed actor can attempt to use the international efforts by private actors and NGOs to exert pressure on the state.

Secondly, private actors and NGOs also had an effect on the cohesion of the Palestinians. "NGOs and private individuals (...) command more freedom and flexibility to contact armed actors or react to their requests" (Hofmann and Schneckener 2011: 2). Private actors and NGOs can therefore have a greater impact on the cohesion of the armed actor than the state. Clearly, much depends on the armed actor's willingness to cooperate with the private actor. Interestingly, "[t]heir willingness to do so tends to be greater the more anchored the armed actor is in society and the more support it requires from the population. In these cases, the armed actor probably has an interest in increasing its legitimacy among civilians" (Hofmann and Schneckener 2011: 10). Because Hamas could gain through the contact with Jimmy Carter in terms of popularity, it could be compensated for the previous exclusion from the peace deal. Consequently, it considered cooperation with Fatah and even a peace deal with Israel.

Cohesion and expectations are related. In the absence of a Way Out, raising expectations increases cohesion. This is the case because the Palestinians' unity against the enemy and the agreement on expectations admits a lacking Way Out. When an acceptable Way Out is offered, raising expectations increases spoiling behaviour and hence diminishes cohesion. This is the case because potential peace spoilers will expect additional concessions and the possibility of being included in a peace deal. Without unity, Abbas was not able to negotiate. Before Carter's visit, Hamas resisted a peace deal.

In sum, private actors and NGOs influence the negotiation ripeness of the armed actor in two interrelated ways. They can compensate for exclusion and therewith increase cohesion while simultaneously lowering expectations. Therewith the private actor can balance a Way Out and a

Hurting Stalemate arriving at a point where both elements of ripeness can be reached simultaneously. However, private actors and NGOs can also have the effect of raising expectations. Especially when a generous peace offer is absent, high expectations increase frustration. While concurrence of a Way Out and cohesion is conducive to conflict resolution, cohesion coupled with the absence of an offered Way Out is conducive to conflict.

What does that mean for the employment of private actors and NGOs as a ripeness enhancing instrument? The recommendation that can be derived for involving private actors and NGOs concerns timing and the existence of a Way Out. While states tend to only consider negotiations once violence has escalated, private actors and NGOs tend to engage non-state armed groups before violence escalates, that is “before the lines of the conflict become hardened” (Hofmann and Schneckener 2011: 10). However, under certain circumstances, intervening too early can contribute to conflict, namely when the state is not willing to negotiate. As the first case in this paper revealed, the Geneva Initiative contributed to elevate the expectations of the Palestinians. However, with the absence of a simultaneous Way Out offered by Israel, the Hurting Stalemate of the united Palestinians turned into the resumption of the Intifada. In turn, once an acceptable Way Out is offered, private actors and NGOs should become involved to lower the expectations, especially from a potential peace spoiler and, therewith, increase the cohesion of the conflict actor reacting to the peace proposal. Against the common assumption that private actors and NGOs can effectively prepare peace negotiations, the results of this paper suggest that the involvement of the private actor should be well-timed with an offered Way Out by the state because dynamics of expectations and cohesion have to be taken into consideration.

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