

Geneva Initiative- unfinished Process!

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Since 7th October images of destruction have been on our TV screens every day. We are bombarded daily with disinformation from all sides of the Gaza war and some short glimpses of the horror of warfare inflicted on civilians be they Palestinians or Israelis. Relations between Israelis and Palestinians have been conflictual ever since the creation of Israel in 1948. All sides have justification for their hatred and violence against the “others”. A lasting solution requires the willingness to share land and resources. How to share is a matter of negotiation. For negotiations to succeed in the region of Gaza, Israel, and West Bank, some obstacles need to be overcome. A lot of well-intentioned experts, writers, politicians, journalists, business people, and members of the warring parties have made suggestions on how to turn this dehumanizing war and deep hatred into peace, mutual recognition, and co-existence. What follows are some reflections that might support a renewed peace-making process.

Belligerent parties should be reminded of basic rules of war making

War-making in the Gaza prison is regressing to primitive levels of trying to win at all costs - no matter how many children, mothers, older and sick people get killed on the way to victory - which is not victory! It is rather a mindless killing and a medieval form of hatred.

To conduct responsible warfare, parties to an armed conflict should comply with the Geneva Conventions, international humanitarian law, and international human rights law. Governments have signed up to them, Israel is one of those who signed, and the USA as well. Only Hamas does not have to face the brunt of criticism based on violation of international law as it is not a signatory nor representing a state. However, each one war-making parties can be taken to the International Criminal Court in The Hague for war crimes, crimes against humanity, or other serious violations of international humanitarian law committed by the organization or its members. The ICC has jurisdiction over individuals accused of these crimes, regardless of their official positions or affiliations.

However, neither Israel nor the US have signed the ICC Rome Statute and hence individuals from both countries cannot be prosecuted by the ICC unless the crimes were committed on the territory of a state party to the Rome Statute. On the other hand, courts in Belgium and Switzerland have a principle known as universal jurisdiction, which allows them to prosecute individuals for certain serious crimes, such as war crimes, crimes against humanity, genocide,

and torture, regardless of where the crimes were committed or the nationality of the perpetrator or victims.

In theory, individuals like Benjamin Netanyahu or Joe Biden could potentially face legal action in Belgium or Switzerland if there were credible allegations of such crimes and if those countries' legal systems determined that they had jurisdiction over the case. However, the likelihood of such legal action being pursued against sitting heads of state or former heads of state is extremely low due to various political, diplomatic, and legal considerations.

Violations of the Geneva Conventions

For the record, based on what has been reported from Israel and Gaza, the following war crimes have allegedly been committed by Hamas and the Israeli Defense Force (IDF) separately.

I. War Crimes carried out by Hamas

- **Indiscriminate Rocket Attacks:** Hamas has launched thousands of rockets indiscriminately into civilian areas in Israel, targeting cities, towns, and villages. Such attacks deliberately endanger civilian lives and violate the principles of distinction and proportionality under international humanitarian law.
- **Use of Human Shields:** There have been allegations that Hamas has used civilian infrastructure, such as schools, hospitals, and residential buildings, to store weapons, launch attacks, and hide militants. This practice violates the principle of distinction and puts civilians at risk of harm.
- **Proximity of Tunnel Construction in residential neighborhoods:** Hamas has constructed tunnels used for smuggling weapons, launching attacks, and infiltrating Israeli territory. These tunnels have been dug from civilian areas in the Gaza Strip, including residential neighborhoods, which endangers civilian lives and violates international law.
- **Execution of Alleged Collaborators without due process:** Hamas has been accused of extrajudicial killings and summary executions of Palestinians accused of collaborating with Israel, without fair trial or due process. Such actions violate fundamental human rights principles and the right to a fair trial.

II. War Crimes carried out by Israel (Israeli Defense Force)

- **Excessive Use of Force:** The IDF has been criticized for using disproportionate force in response to Palestinian protests and demonstrations, resulting in civilian casualties. This includes the use of live ammunition against unarmed protesters, including children, journalists, and medical personnel.
- **Targeting Civilian Infrastructure:** There have been allegations that the IDF has *deliberately* targeted civilian infrastructure once identified as “impact targets”, such as schools, hospitals, residential buildings, and water and sanitation facilities, during military

operations. Targeting civilian infrastructure violates the principle of proportionality and can constitute a war crime.

- **Collective Punishment:** The IDF has imposed collective punishment on the civilian population in the Gaza Strip, including through the ever-tightened blockade and restrictions on the movement of goods and people since 7th October 2023. Collective punishment is prohibited under international law and can constitute a war crime.
- **Attacks on Medical Personnel and Facilities:** There have been allegations that the IDF has targeted medical personnel and facilities during military operations, impeding access to medical care for civilians and violating the principle of medical neutrality.
- **Bombing of the refugee “sanctuaries”:** Announcing the safe area for shelter and then bomb afterwards, such as¹

Other ongoing violations of the rights of Palestinians over the years included:

- **Unilateral Settlement Expansion and Land Confiscation:** The establishment and expansion of Israeli settlements in the occupied Palestinian territories, including the West Bank and East Jerusalem, have been condemned by many in the international community as violations of international law, including the Fourth Geneva Convention, which prohibits the transfer of civilian populations into occupied territory.

These are some of the war crimes reportedly committed by either culprit and seen on Television in the living rooms and various internet social media on handheld devices around the world!

Providing arms or military assistance to a country engaged in war crimes or serious violations of international humanitarian law could potentially lead to complicity in those crimes. However, whether such actions constitute war crimes depends on several factors, including the intent of the provider, the nature of the assistance provided, and the knowledge of the provider regarding the recipient's actions and perhaps should also include the humanitarian impact of such seemingly unconditional military support

Under international law, aiding or abetting war crimes or crimes against humanity can lead to individual criminal responsibility. This means that individuals, including government officials or arms suppliers, who knowingly assist or support the commission of war crimes could be held accountable for their actions. However, proving complicity in war crimes can be legally complex and typically requires demonstrating that the provider knowingly aided or encouraged the commission of specific crimes.

¹ References

Despite the long period of violence, efforts to make peace and cooperate continued nonetheless.

Despite the longstanding conflict between Israelis and Palestinians ever since the foundation of Israel, there have been instances of cooperation and peace efforts between individuals, communities, and organizations on both sides including international mediation and interventions. Here are some examples:

- **Track II Diplomacy (Place ? year?):** Track II diplomacy refers to informal, unofficial channels of communication and dialogue between individuals and groups from conflicting parties. Israeli and Palestinian civil society organizations, academics, and former officials have engaged in Track II diplomacy efforts to explore potential solutions to the conflict and build trust between the two sides.

Track 1.5 Diplomacy (Oslo I, 1992): This refers to negotiations between state of Israel and the then yet to exist Palestinian Authority (non-state, since the latter was not internationally recognized). The negotiations facilitated by Norway led to the Oslo Accords in 1992 and represented a significant attempt at Israeli-Palestinian peace negotiations. The accords led to the establishment of the Palestinian Authority (PA) and outlined a framework for future negotiations aimed at achieving a two-state solution.

- **Humanitarian Aid and Joint cultural and educational cooperation:** Israeli and Palestinian organizations, as well as international humanitarian agencies, have collaborated on various humanitarian projects aimed at assisting vulnerable populations, including refugees, in the region. Representatives of both sides also created joint cultural events and educational exchanges.
- **Track 1.5 Diplomacy Oslo II, 1995):** Building on the principles established in Oslo I, Oslo II was signed on September 28, 1995, in Taba, Egypt. It provided further details and implementation arrangements for Palestinian self-government, including the division of the West Bank into Areas A, B, and C, delineating the respective responsibilities of the Palestinian Authority (PA) and Israel in these areas.

Counter-currents

The Oslo peace process experienced serious setbacks due to the outbreak of the Second Intifada, also known as the Al-Aqsa Intifada, in September 2000. While Oslo I and II enabled both sides to make significant progress towards the path of peace and negotiated arrangements, Israeli settlements continued aggravating the tensions in the Westbank which eventually and understandably erupted into a Second Intifada marked by intensified Palestinian-Israeli violence and unrest, suicide bombings, physical attacks, and retaliation and tightening of security controls by the Israeli military. The negative outcome was a breakdown of negotiations, deepening mistrust, and escalating violence negatively affecting the peace process.

The increasing inter-community violence and hatred re-ignited both side's meta-narratives which made reaching a negotiated agreement very difficult. Intercommunal and/or interstate cooperation eventually collapsed after the assassination of PM Yitzhak Rabin by an Israeli extremist named Yigal Amir who opposed the Oslo Accords and Rabin's peace efforts with the Palestinians. Rabin was succeeded by Shimon Peres, who briefly assumed the role of Acting Prime Minister following Rabin's assassination. Peres then became the Prime Minister until he was defeated in the 1996 Israeli elections by Benjamin Netanyahu, who became the Prime Minister of Israel in 1996. Netanyahu was firmly against a two-state solution and continued to support Jewish settlements illegally located in Palestinian territory.

Renewed attempts towards Israeli-Palestinian peace

The Geneva Initiative was an unofficial peace effort by prominent Israeli and Palestinian public figures and former officials from both sides. The Geneva Initiative, also known as the Geneva Accord, is a draft Permanent Status Agreement to end the Israeli–Palestinian conflict, based on previous official negotiations, international resolutions, the Quartet Roadmap, the Clinton Parameters, and the Arab Peace Initiative. The document was finished on 12 October 2003.

- **Key Actors**

The initiative aims to offer a detailed framework for a negotiated two-state solution to the Israeli-Palestinian conflict. The Geneva Initiative was launched in 2003 and was implemented by two NGOs namely, Heskem (The Israel Peace Initiative) and Palestinian Peace Coalition (PPC) or Palestinian Peace Organization (PPO).

Heskem was the Israeli NGO responsible for promoting the Geneva Initiative within Israeli society. It included Israeli political figures, activists, and academics who supported the initiative and worked to build public awareness and support for its proposals. Some prominent figures involved in Geneva Initiative Israel included former Israeli politicians such as Yossi Beilin and Ami Ayalon.

PPC/PPO, sometimes referred to by both names, was responsible for promoting the Geneva Initiative within Palestinian society. It comprised Palestinian political figures, activists, and intellectuals who supported the initiative and advocated for its adoption among Palestinians. Some key figures associated with Geneva Initiative Palestine included former Palestinian Authority ministers such as Yasser Abed Rabbo and Sufian Abu Zaydeh.

Both organizations played significant roles in promoting the Geneva Initiative and generating support for its proposals within their respective societies. They conducted outreach, advocacy, and public engagement efforts to advance the principles of the initiative and encourage dialogue and cooperation between Israelis and Palestinians toward a negotiated two-state solution to the Israeli-Palestinian conflict.

- **Key aspects of the Geneva Initiative included:**

The Geneva Initiative served as a detailed, comprehensive proposal for resolving the Israeli-Palestinian conflict, addressing core issues such as borders, Jerusalem, refugees, and security.

- ▶ **Borders:** The initiative proposes the establishment of borders based roughly on the 1967 lines (the Green Line), with land swaps to accommodate Israeli settlements in the West Bank.
- ▶ **Jerusalem:** It suggests that Jerusalem should serve as the capital of both Israel and Palestine, with Jewish neighborhoods under Israeli sovereignty and Arab neighborhoods under Palestinian sovereignty. Additionally, it proposes special arrangements for the Old City, including joint control over holy sites.
- ▶ **Refugees:** The Geneva Initiative suggests a compromise on the issue of Palestinian refugees, with most refugees being resettled in the future Palestinian state, compensation for refugees, and a limited number being allowed to return to Israel under family reunification schemes.
- ▶ **Security:** The initiative addresses security concerns for both Israelis and Palestinians, including demilitarization of the future Palestinian state, security arrangements along the border, and international monitoring mechanisms to ensure compliance.

While it has not been officially adopted by either the Israeli or Palestinian governments, it garnered support from various segments of both societies and was promoted as a viable blueprint for peace by civil society organizations, activists, and international stakeholders. It represented an important example of Track II-III diplomacy and grassroots peace efforts aimed at advancing the prospects for a negotiated settlement to the conflict.

- **Funding and Resources**

While the Swiss government provided significant financial support to the Geneva Initiative, it was not the sole source of funding. The initiative received funding from a variety of governmental and non-governmental sources, as well as private donors, both in Switzerland and from other countries.

- **Public support.**

Under the guidance of both NGOs, Israeli and Palestinian politicians, academics and civil society leaders met and were able to make possible far-reaching mutually acceptable solutions. Heskem, the Israeli NGO led by CEO Gadi Baltiansky and PPC (Palestinian Peace Initiative) led by CEO Nidal Foqaha achieved a lot despite criticism from many individuals and constituencies of their respective communities. After the completion of the Geneva Initiative document on October 12, 2003, efforts continued to promote and implement its principles and proposals. Here are some key developments and activities that followed the finalization of the document:

In September 2009, a detailed expanded version of the plan was released.^[7] The annexes serve as a supplement to the Geneva Accord, outlining the practical measures required for the successful implementation of the two-state solution. They cover key issues including security, border crossings, the Implementation and Verification Group (IVG), roads, water management, environmental concerns, the economy, and the division of Jerusalem.^[8]

- **Monitoring and Evaluation**

There have been several evaluations of the Geneva Initiative, assessing its impact, effectiveness, and reception among Israelis and Palestinians. These evaluations have been conducted by various organizations, including academic institutions, think tanks, and civil society groups such as:

- ▶ **International Crisis Group:** The International Crisis Group, a non-governmental organization focused on conflict prevention and resolution, has published reports and analyses assessing the Geneva Initiative and its implications for Israeli-Palestinian peace efforts.
- ▶ **The Brookings Institution:** The Brookings Institution, a think tank based in the United States, has published evaluations and commentaries on the Geneva Initiative, examining its potential for advancing peace and its reception among Israeli and Palestinian stakeholders.
- ▶ **Academic Studies:** Various academic studies and research papers have been conducted by scholars and researchers to evaluate the Geneva Initiative's impact on public opinion, political discourse, and peace prospects in the Israeli-Palestinian context.

- **Challenges and Setbacks**

Despite ongoing advocacy and engagement efforts, the implementation of the Geneva Initiative faced challenges and setbacks. Political obstacles, including changes in leadership, shifting priorities, and renewed violence and conflict, hindered progress toward a comprehensive peace agreement based on the principles outlined in the document.

Overall, the period following the finalization of the Geneva Initiative document was characterized by continued advocacy, dialogue, and engagement aimed at advancing Israeli-Palestinian peace efforts based on the principles of the initiative. While progress toward a negotiated settlement remained elusive, the Geneva Initiative remained an important reference point and framework for future peace initiatives in the Israeli-Palestinian context.

Disrupters.

Peace process became much more difficult due to the violence of the second Intifada (2000-2005), the assassination of PM Yitzhak Rabin in 1995 and the death of Yassir Arafat in 2004.

Both Rabin and Arafat could be seen as the linking pins of the negotiation process. In addition, the leading negotiators of the Geneva Initiative faced political difficulties back at home.

Yossi Beilin, a prominent member of the Israeli Labor Party for much of his political career, then member of Meretz, a left-wing political party in Israel known for its advocacy of peace, social justice, and human rights, had to face PM Netanyahu of the right-wing extremist party Likud from 1996-1999, 2009-2013, and again from 2013-2021. Netanyahu made it publicly clear that he opposed any two-state solution and other agreements which would jeopardise the acceptability of “the Greater Israel” of which his extremist right wing coalition party members cherish.

On the Palestinian side of the Geneva Initiative, Yasser Abed Rabbo, who served as the Secretary-General of the Palestine Liberation Organization (PLO), continued to be involved in Palestinian politics following the death of Yasser Arafat. Rabbo remained active in diplomatic efforts and negotiations aimed at advancing Palestinian interests and seeking a resolution to the Israeli-Palestinian conflict. Both Rabbo and Abbas have been associated with the Fatah movement, which is the largest faction within the Palestine Liberation Organization (PLO) and the dominant political party in the Palestinian Authority (PA). They have worked together within the framework of Fatah and the PLO. While both Rabbo and Abbas have been committed to the goal of Palestinian statehood and the pursuit of peace with Israel, they have sometimes differed in their political approaches and strategies. Rabbo has been associated with more left-leaning positions and has advocated for a more assertive stance in negotiations with Israel that prioritizing diplomacy and negotiation. Yasser has lost his position as Secretary General of the PLO, is no longer much mentioned in the media or publicly available sources and seems to have lost a power struggle with Abbas.

Mahmoud Abbas has served as the President of the State of Palestine since January 2005. He was elected to a four-year term but has remained in office ever since. He has not agreed to elections since due to subsequent political developments and his concerns over the increasing popularity of Hamas. Abbas is the chairman of the Executive Committee of the Palestine Liberation Organization (PLO). It is the highest executive body of the PLO. The PLO is recognized internationally as the representative of the Palestinian people. Role of the Swiss Government’s Good Office and Mistaken foreign policy

On 25 January 2022, the Swiss Federal Department of Foreign Affairs (FDFA) announced it would gradually withdraw its financial support for the Geneva Initiative, effectively ending it by 2023. ¹The Swiss government being the main financial support of the Geneva Initiative mandated a first evaluation study in 2009 and a second evaluation in 2020. Some of the conclusions of the second evaluation report were used by the Swiss Foreign Affairs Department to terminate the financial support of the Geneva Initiative based on the assessment that for instance the efforts by both NGOs as having been a failure. It was concluded that the two NGOs failed to bring about a two-state solution hence there is no space for the civil society engagement

in a peace process. Perhaps the thinking was that only military might could bring about a longer-term solution. A like-minded approach to resolving the self-perpetuating conflict in the Palestine by other key actors?

To stop the funding of the Geneva Initiative by the Swiss Foreign Affairs Department was shortsighted. It was known then and reconfirmed clearly by PM Netanyahu that he never wanted a two-state solution which was the main objective of the Geneva Initiative.

In addition, in light of the many years of inter-community violence and continuous attempts to reach peace, it is of paramount importance to keep existing working partnerships between Israeli and Palestinian organizations and civil societies alive! This is of particular significance when leading representatives or linking pins for dialogue on both sides of the divide engage in measures that further inflame the emotions and entrench meta-narratives of both parties. As Mr. Mitterand once said “il faut donner du temps au temps». Time and diplomatic space are essential when the situation cannot be steered into solutions that can be implemented yet and need time to mature, “readiness”. It is crucial to help parties in conflict to continue to talk and to explore with their respective communities what could be done to lead to peace and not to more war.

Restarting the Geneva Initiative

Point 1. Exchange the hostages taken by Hamas against the Palestinians kept in Israeli prisons. Who and how many of hostages versus prisoners would be released can be established through negotiations

Point 2. Let the Hamas (fighters and party officials) exit Gaza and move to a camp in a country willing to shelter them for instance Turkey or Qatar (both support Hamas, all three are close to Muslim Brotherhood). Such an exit would be similar to what happened when Yasir Arafat and the PLO leadership were allowed to evacuate by sea from Beirut to Tunis.

Point 3. Invite Palestinian fractions to nominate a joint Palestinian authority for the ensuing negotiations and reconstruction of war-torn Gaza and of the Westbank that have been destroyed by settlers and IDF military forces. Invite the newly constituted Palestinian Authority to re-establish itself in Gaza to start the reconstruction process led by Palestinians for Palestinians. Financial and technical support by third parties should be welcomed but conditionalities should not be accepted for instance reconstruction based on the Washington Consensus requirements.

Point 5. Negotiations for a two-state solution or a confederation (of Israel and Palestine) should be started but all settlements in occupied land be stopped without exceptions.

The following leaders should not be retained in any function or position for all of the preceding points particularly not PM Netanyahu, and Yahyar Sinwar. Leader of Hamas in Gaza. Netanyahu

and Sinwar have committed multiple war crimes and should be sent for trial (an accountability measure) to the International Criminal Court in the Hague. Also not be retained is Mahmoud Abbas who has blocked elections since 2009 and is seen as unable to stand up to Israeli pressures.

Point 6. Creation of a constitution for either two states or for a confederation. If seen as useful, an international peace force could ensure a green line and the many walls should be dismantled. A select group of guarantor countries should also be selected without individual intervention rights (e.g. Qatar, Saudi Arabia (KSA), USA, China, Egypt, Iran, and Turkey...)

Point 7. Invitation to China to mediate a deal between Iran-Hezbollah-Syria with USA and the four western nuclear powers in exchange for an agreement by Iran to stop support of groups involved in armed violence and actions in the Palestinian territory.

Conclusion: Building on the Geneva Initiative - finding a permanent solution

The Geneva Initiative has much similarity with the 2000 Camp David Summit and Taba Summit proposals, and Olmert's 2008 Napkin map.² Only settlements along the Green Line would be annexed by Israel with mutual land swaps, including Ma'ale Adumim, Pisgat Ze'ev and Giv'at Ze'ev. In the Geneva Initiative, Ariel would be dismantled and the Palestinians be given more sovereignty over East Jerusalem.

Jerusalem would be divided administratively, with East Jerusalem ("Al-Quds") serving as the capital of the Palestinian state and West Jerusalem ("Yerushalayim") as the capital of Israel. A Multinational Force would play an important role. In return for removing most of the Israeli settlements, the Palestinians would limit their "right of return" of refugees to Israel to a number specified by the Israeli government and would put an end to any further claims and demands from Israel.

After 76 years of war and violent conflict in the land of Palestine and in light of today's horrific and brutal war in Gaza, it is high time to find solutions that could lead to a sustained peace and coexistence between Israelis and Palestinians. Concerning a personal Six Point Road Map made public on 19th October, the following steps should be considered if the circle of conflict and war could be broken, namely.

² https://en.wikipedia.org/wiki/Geneva_Initiative