

Oslo II: The September 1995 Palestinian–Israeli Accord

John Roberts

PLO leader Yasser Arafat is convinced that the ‘Oslo II’ agreement which he signed with Israeli Prime Minister Yitzhak Rabin in Washington on 28 September 1995 will yield an independent Palestinian state in due course. But when Arafat used the word “*definitely*” to demonstrate his conviction to reporters that such a state would emerge, it was struck from the official US record of the proceedings – a stark reminder that not everyone is yet convinced of either the likelihood or the desirability of this particular outcome.

The main Israeli opposition party, Likud, immediately flagged its intention to attempt to renegotiate the accord should it win next summer’s general election. In particular, it wanted Israeli military security to be maintained over the whole of the West Bank, whereas the accord provides for the withdrawal of Israeli forces from six leading Palestinian towns and for the introduction of self-rule to the majority of Palestinian residents in the West Bank.

However, the fact the Likud’s leadership spoke of renegotiating the accord, rather than repudiating it, shows how far the Israeli–Palestinian peace process has come since a relatively junior cluster of Israeli and Palestinian enthusiasts managed to prevail upon rather more staid leaderships in both the PLO and the Israeli government to embrace ‘Oslo I’, the original agreement which established a basic framework for Israeli–Palestinian peacemaking. In effect, even Likud now has to accept the legality of the peace process, and thus the right of the PLO – and, in future, the elected Palestinian Council – to speak for the Palestinian community under Israeli rule.

Equally important is the way in which the signing ceremony was staged in Washington. Not only President Clinton but President Hosni Mubarak of Egypt and King Hussain of Jordan were present as official witnesses to the accord. In other words, should any future government in Israel consider formal repudiation of the agreement, in political terms it would be tantamount to saying they did not accept the validity of Israel’s peace treaties with Egypt and Jordan, and that they did not accept the necessity for close relations with the United States.

To this extent, the agreement validates the judgement of respected Israeli analysts that Rabin and Foreign Minister Shimon Peres, the chief Israeli architect of the accords, are trying to ensure that the political reality of Palestinian autonomy will be so strong by next summer that no successor government dare seriously undermine it.

But what of the final outcome? If the Palestinians’ autonomy indeed becomes sufficiently embedded to survive any change of government in Israel, does it also contain within it sufficient political momentum to ensure the emergence of a fully independent Palestinian state? The most succinct response to this was given by Professor Asher Susser at a briefing for Middle East analysts held at the Royal Institute of International Affairs in London on 19 September, just 48 hours before the main terms of the accord were settled and five days before they were finalised.

“We are withdrawing from the West Bank and Gaza, not because it is militarily impossible for us to hold it – we could hold it for years to come, maybe forever – but because demographically, and politically, it is untenable,” said Professor Susser, a former director of Israel’s Moshe Dayan Centre for Middle Eastern Studies. Susser believes that the Israeli government accepts the inevitability of withdrawal and that, in current international political circumstances, that implies its acceptance that an independent Palestinian state will eventually emerge.

Yet while this is clearly the Palestinians’ objective, even though they are not allowed to raise it officially until final status negotiations begin, this is still an unspoken, unacknowledged outcome on the part of the Israeli government, a taboo that the Israeli leadership dare not openly challenge as yet. But it will doubtless be a major theme of Likud and other right wing opposition assaults on the government as the election draws closer.

Ironically, since final status negotiations are due to begin two years after the withdrawal of Israeli forces from Gaza and Jericho, their theoretical opening will coincide with the Israeli elections. There is thus the possibility that the Rabin

government's last legacy to the Palestinians may be the formal opening of final status negotiations, with the substance to be negotiated, at least on the Israeli side, by a government which in its heart does not believe in the peace process at all.

This means that the terms of those agreements already signed by that date will be of the utmost importance in preserving the momentum of the peace process. And in this regard, the contribution of the Oslo II accord will be very considerable.

The agreement makes it clear that henceforth the West Bank and Gaza are to be regarded as a single economic entity, and that their Palestinian inhabitants are to be regarded as a single people. This may appear somewhat peculiar, given the way in which the document ensures that in practice there will be a raft of different security regimes pertaining in various parts of the Occupied Territories, pending agreement on a final accord and its actual implementation, but it does help strengthen the principle of Palestinian unity. Above all, the provision that all adult Palestinians living in territories captured by Israel in 1967 will be entitled to vote in the forthcoming elections for a Palestinian Council in effect means that the Palestinians, simply by the exercise of casting their ballot, will be defining their nationality, regardless of where they live. It is true that the Palestinians of East Jerusalem are placed in a unique position whereby they can vote for council candidates, but cannot stand for election purely on the basis of their residence in Jerusalem itself. However, it does at least make clear that their welfare falls within the Council's general political remit and this strikes a heavy blow against the mainstream Israeli view that East Jerusalem was annexed to Israel in 1967 and must remain annexed to the Israeli state in any final agreement.

The election of the 82-member National Council with both legislative and executive powers will also give the Palestinians an enhanced political legitimacy in their campaign for acceptance by both Israel and the United States that the Palestinian people possess an inherent and inalienable right of self-determination. Since any exercise of self-determination would undoubtedly result in an overwhelming majority for an independent state, the election of the new Council will bring independence a step further.

In providing for a full Palestinian franchise, the Israelis are to a large extent defining the boundaries of any future Palestinian state. It will be hard for any Israeli government to argue that any area

containing Palestinian voters should be handed over to Israel against the wish of its actual residents. Thus the agreement safeguards the Palestinian nature of much of the Occupied Territories and provides an important tool for the retention of East Jerusalem as Palestinian territory even though Israel will claim its unilateral annexation of 1967 cannot be reversed.

In practice, this means that in many places the old 'Green Line' boundary between Israel and what was previously the West Bank of Jordan will become the boundary between Israel and the autonomous area – and thus of any future Palestinian state. In this regard, the inclusion of Tulkarm and Qalqilya in the list of six towns from which Israel will withdraw all its military forces is highly significant. They both lie astride Israel's narrow waist, perched as they are on the Mediterranean side of the Palestinian watershed, and situated barely 20kms from the actual coast.

But the agreement also provides for continued Israeli control of vast swathes of territory that is either populated only sparsely by Palestinians or is the site of Israeli settlements. During final status negotiations, a right wing Israeli government – if it could commit itself to abandoning the principle of retaining all the land it regards as 'Eretz Israel' – would no doubt seek to retain control of as much of this terrain as possible. This is where there is a real risk that the Palestinians may be heading for independence, but at the price of being forced to cede considerable parts of the West Bank (and Gaza) to Israel. As with Jerusalem, there is no answer to this question save that of faith: faith that the rest of the world will not allow any Israeli government to annex substantial parts of the Occupied Territories, since these represent barely one-fifth of the old British mandated territory of Palestine, whilst containing some 2.8 million people (2.5 million Palestinians and 300,000 Jewish settlers) of a total of seven million people now living in what the British termed Palestine, but which now comprises Israel and the Occupied Territories.

Nor does the accord provide any encouragement for the bulk of the Palestinian diaspora living outside the Occupied Territories as a result of the Arab-Israeli wars of 1948 and 1967. Their status, too, is still to be addressed in the final status negotiations. And whilst Israel is prepared to consider the issue of 1967 refugees, who left homes in what are now the Occupied Territories, it does not want to consider the plight of the 1948 refugees and their children. Yet the issue will have to be faced. Cross-border

flight, and a wartime inability to return to former homes, requires either a right of return or a right to reparations in any civilised form of peacemaking.

The September 1995 agreement shows that for all the problems besetting the tortuous Israeli–Palestinian peace process, the current Israeli and Palestinian leadership have sufficient faith in each other to pursue detailed negotiations which will almost certainly result in the creation of an independent Palestinian state. But whether that faith can be maintained to ensure that such a Palestinian state comes into existence without being robbed of its hinterland or of its natural capital in Jerusalem, and whether both Israel, the Palestinians and their neighbours can somehow resolve the issues stemming from the continued existence of perhaps three million officially stateless Palestinian refugees living in exile, is quite another question.

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The following is a summary of the 400–page Israeli–Palestinian agreement signed in Washington on 28 September 1995.

THE INTERIM AGREEMENT BETWEEN ISRAEL AND THE PLO

MAIN POINTS

Background

The Interim Agreement between Israel and the PLO constitutes a new and important stage in the transition from conflict to reconciliation between Israel and the Palestinian people – as well as between Israel and the Arab states. The agreement is part of the peace process which began at Camp David, in 1978, with the ultimate aim of achieving peace in the whole region, and was resumed in October 1991 in Madrid. A breakthrough in Israeli–Palestinian relations was marked by the Declaration of Principles on Interim Self–government Arrangements of September 13, 1993. This declaration set out the principles which are to govern Israel–Palestinian relations for an interim period of five years, until the implementation of a permanent status agreement

To date, preliminary agreements implemented pursuant to the Declaration of Principles include the Gaza–Jericho Agreement of May 4, 1994 which provided for the withdrawal of Israeli forces from the Gaza Strip and the Jericho Area and the transfer of civil powers in these areas to a Palestinian Authority, and subsequent agreements giving the Palestinian Authority limited responsibilities for additional civil spheres throughout the West Bank. All these agreements are superseded by the provisions of the Interim Agreement

The main object of the Interim Agreement is to broaden Palestinian self–government in the West Bank by means of an elected self–governing authority – the Palestinian Council. This will allow the Palestinians to conduct their own internal affairs, reduce points of friction between Israelis and Palestinians, and open a new era of cooperation and co–existence based on common interest, dignity and mutual respect. At the same time it protects Israel's vital interests, and in particular its security interests, both with regard to external security as well as the personal security of its citizens in the West Bank

General

The Interim Agreement between Israel and the PLO, including its various annexes, comprises some 400 pages, setting forth the future relations between Israel and the Palestinians. To the main body of the agreement are appended six annexes dealing with: security arrangements, elections, civil affairs (transfer of powers), legal matters, economic relations, and Israeli–Palestinian cooperation

The agreement states that a Palestinian Council will be elected for an interim period not to exceed five years from the signing of the Gaza–Jericho Agreement (i.e. no later than May 1999). The negotiations on the permanent status arrangements will begin no later than May 1996

The permanent status negotiations will deal with the remaining issues including Jerusalem, refugees, settlements, security arrangements borders, relations and cooperation with neighbouring countries, etc

Elections

The Council is an elected body and, accordingly, the agreement sets out arrangements for democratic elections to the Council by all Palestinians of the West Bank and the Gaza Strip age 18 or over, who are registered in the population register. The elections will take place 22 days after the conclusion of an IDF redeployment from populated areas in the West Bank

The elections to the Council will be personal and by district. A separate election will be held simultaneously for the election of the Head of the Executive Authority of the Council

The candidacy of an individual, a party or a coalition of parties shall be rejected if the said candidate, party or coalition professes racist views or acts in an illegal or undemocratic manner

Palestinian residents of Jerusalem will be able to participate in the elections according to special arrangements detailed in the agreement. The voting will take place in localities outside Jerusalem and by means of special envelopes which will be sent from post offices to the Central Elections Committee. A Palestinian with a Jerusalem address who wishes to stand for election to the Palestinian Council will be able to do so only if he or she has an additional valid address in the West Bank or the Gaza Strip

All stages of the election process will be open to international observation, to ensure that they are free and fair. At the request of the parties, the European Union has agreed to coordinate the election observation. The observer delegation will be composed of representatives from the following states and international organisations: the EU, the UN, the USA, the Russian Federation, Canada, Egypt, Japan, Jordan, Norway, South Africa, the Non-Aligned Nations, the OAU, and the Islamic Conference Organisation.

The Palestinian Council

The Palestinian Council to be established following the elections will assume various powers and responsibilities in security and civil spheres in the West Bank and Gaza, as detailed below. With the establishment of the Council, the Israeli military government will be withdrawn and the Civil Administration dissolved. The Council will assume responsibility for all rights, liabilities, and obligations in the spheres transferred to it. At the same time Israel will retain those powers and responsibilities not transferred to the Council.

The Council, which will have 82 members, will have legislative and executive powers. The agreement provides that the legislative powers will be exercised by the Council as a whole, while its executive powers will be exercised by a committee of the Council — the Executive Authority. This committee shall comprise Council members together with a small number of appointed officials.

The powers of the Council will extend to all matters within its jurisdiction. It should be noted that it will not have powers in the sphere of foreign relations. The agreement does, however, provide for a number of areas in which the PLO may, on behalf of the Council, conduct negotiations and sign agreements (economic, donor countries, regional development).

Security and Redeployment

The IDF will redeploy in the West Bank according to the timetable set out in the agreement. In the first stage, designed to facilitate the holding of elections, the IDF will withdraw from the populated areas of the West Bank: the six cities — Jenin, Nablus, Tulkarem, Kalkilya, Ramallah and Bethlehem (in the city of Hebron special security arrangements will apply as provided in the agreement) — and 450 towns and villages. At the end of this redeployment, there will be almost no IDF presence in Palestinian population centres.

In general, throughout the West Bank and the Gaza Strip, Israel will have overall responsibility for external security and the security of Israelis and settlements.

With regard to internal security and public order, the agreement establishes different arrangements for three types of area: — Area “A” comprises the six cities listed above. In these areas, the Palestinian Council will have full responsibility for internal security and public order, as well as full civil responsibilities.

Area “B” comprises the Palestinian towns and villages of the West Bank. In these areas, which contain some 68 percent of the Palestinian population, the Council will be granted full civil authority, as in Area “A”. The Council will be charged with maintaining public order, while Israel will have overall security authority to safeguard its citizens and to combat terrorism. This responsibility shall take precedence over the Palestinian responsibility for public order.

25 Palestinian police stations will be established in specified towns and villages to enable the Palestinian police to exercise its responsibility for public order. The agreement contains provisions requiring that the movement of Palestinian police be coordinated and confirmed with Israel.

In Area “C”, which comprises the unpopulated areas, of strategic importance to Israel and the Jewish settlements, Israel will retain full responsibility for security and public order. The Council will assume all those civil responsibilities not related to territory, such as economics, health, education, etc.

Further Redeployments

In addition to the redeployment of Israeli military forces described above, the agreement provides that a series of further redeployments are to take place at six-month intervals following the inauguration of the Council. In the course of these redeployments, additional parts of Area C will be transferred to the territorial jurisdiction of the Council, so that by the completion of the redeployment phases, Palestinian territorial jurisdiction will cover West Bank territory except for the areas where jurisdiction is to be determined under the final status negotiations (settlements, military locations, etc.).

The Revocation of the PLO Covenant

The agreement contains an undertaking to revoke those articles of the Palestinian Covenant calling for the destruction of Israel, within two months of the inauguration of the Council

The Security Policy for the Prevention of Terrorism and Violence

The agreement provides for the establishment of a strong police force 12 000 in number, that will constitute the only Palestinian security force. The Security Annex specifies the deployment of the police force the approved equipment and its modes of action

The Security Annex specifies the commitment of Israel and the Palestinian Council to cooperate in the fight against terrorism and the prevention of terrorist attacks, according to the following framework: A) The Palestinian Police is the only Palestinian Security Authority

B) The Palestinian Police will act systematically against all expressions of violence and terror

C) The Council will issue permits in order to legalize the possession and carrying of arms by civilians; any illegal arms will be confiscated by the Palestinian Police

D) The Palestinian Police will arrest and prosecute individuals suspected of perpetrating acts of violence and terror

Both sides, in accordance with this agreement, will act to insure the immediate, efficient and effective handling of any incident involving the threat, or acts of terrorism, violence or incitement, whether committed by Palestinians or Israelis. To this end they will cooperate in the exchange of information and coordinate policies and activities

Joint security committees will be established to coordinate between the IDF and the Palestinian police. Regional offices will operate 24 hours a day. Joint patrols will ensure free and secure movement on designated roads in Area "A". Joint Mobile Units will serve as rapid response units in case of incidents and emergencies

Transfer of Civil Powers and Responsibilities

The agreement sets out the arrangements for the transfer of agreed upon civil powers and responsibilities from the Civil Administration to the Council. In Area "C", powers and responsibilities not relating to territory will be transferred to the Council; powers and responsibilities relating to territory will be gradually transferred along with the redeployments in these areas. The transfer of further civil powers and responsibilities is subject to detailed provisions insuring, among other things, the land rights of Israelis and the continued provision of services (electricity, water, telecommunications etc.) to the settlements

Freedom of Movement for Israelis

The IDF and Israelis will continue to move freely on the roads of the West Bank and Gaza. In Area "A" Israeli vehicles will be escorted by joint patrols. Israelis may not in any circumstances be arrested or placed in custody by the Palestinian police, and may only be required to present identity and vehicle documentation. On roads that are jointly patrolled any request for identification shall only be made by the Israeli side of a joint patrol

Search for Missing Persons

Both sides shall cooperate, lending assistance to one another in the search for missing persons, and shall share pertinent information

Legal Issues

The Legal Annex of the agreement sets out arrangements governing the legal relations between Israel and the Palestinian Council. These provisions define the criminal and civil jurisdiction of the Council and include arrangements for legal assistance in criminal and legal matters, including cooperation with regard to police investigations

Religious Sites

Responsibility over sites of religious significance in the West Bank and Gaza will be transferred to the Palestinian side. In Area "C" this will be transferred gradually during the "further redeployment phase", except for the issues which will be negotiated during the permanent status negotiations. Both sides shall respect and protect religious rights of Jews,

Christians, Moslems and Samaritans to wit: A)
Protecting the holy sites

B) Allowing free access to the holy sites

C) Allowing freedom of worship and practice.
Jewish holy sites are listed in the agreement

The agreement guarantees freedom of access to and freedom of worship at the holy sites, and defines access arrangements for the holy places located in Areas "A" and "B". With regard to Rachel's Tomb in Bethlehem and Joseph's Tomb in Nablus, special arrangements are set out in the agreement which will also guarantee freedom of access and freedom of worship

Hebron

In view of the Jewish presence in the heart of Hebron and the sensitive historical and religious aspects involved, special arrangements will apply in this city. These arrangements will enable Palestinian police to exercise responsibilities vis-a-vis Palestinian residents while at the same time Israel will retain the powers and responsibilities necessary to protect Israeli residents living in Hebron and visiting the holy places

There will be a redeployment of Israeli military forces in Hebron, except for places and roads where arrangements are necessary for the security and protection of Israelis and their movements. This redeployment will be completed no later than six (6) months after the signing of this agreement. Israel will continue to carry the responsibility for overall security of Israelis for the purpose of safeguarding their internal security and public order

The status quo at the Tomb of the Patriarchs will remain unchanged, for the time being

There will be a temporary international presence in Hebron

Human Rights

The agreement states that the Israel and the Council shall carry out their functions and responsibilities while adhering to the international norms of human rights and the rule of law, guided by the obligation to protect the public, respect their fellow men and prevent harassment

Water

The agreement contains an undertaking on the part of Israel to increase the amount of water allocated to the Palestinians by 28 million cu.m. Any further addition to either side will be based on an increase in the available water resources to be developed through international funding and channels, among them the tripartite American-Palestinian-Israeli forum which will hold its first meeting after the signing of the Interim Agreement. The agreement provides for the establishment of a joint water committee that will manage water resources and enforce water policies protecting the interests of both parties by the prevention of uncontrolled drilling by enforcing standards, etc

Release of Prisoners

In order to foster a positive atmosphere as this agreement is being implemented, and to engender mutual confidence and a basis for cooperation between the two peoples, Israel will release Palestinian prisoners who are in Israeli custody in three (3) stages according to the following format:
Stage 1 – Upon the signing of the agreement

Stage 2 – On the eve of elections for the Council

Stage 3 – According to other principles which will be established separately

The number of prisoners to be released will be detailed in the Agreement

An Israel-Palestinian Joint Committee will be established to discuss the details of the release of prisoners

Cooperation and Economic Relations

The Economic Annex of the Gaza-Jericho Agreement has been incorporated into the Interim Agreement, and its appendices, including the establishment of a single economic unit for the purpose of customs and import policy, now apply to the whole of the West Bank and the Gaza Strip

In addition, an entire annex of the agreement deals with cooperation between Israel and the Palestinian Council. The parties are committed to cooperation programs involving officials, institutions and the private sector in various fields, such as economics,

science, culture and society. A standing committee will be established to foster such cooperation

Cooperation will focus on five principal areas: environment, economics technology and science, fostering dialogue, and relations between the two peoples

In this context, the parties will work to develop contacts between the economic, agricultural, scientific and educational sectors, and to find common solutions for environmental protection, such as waste removal and clean energy sources. They will work to advance tourism through investment in infrastructure and joint initiatives, to advance education by the development of curricula, the training of sports instructors, youth exchange programs, drug prevention, etc

Education for Peace

The agreement defines the relations between Israel and the Council. Both sides will act to strengthen understanding and tolerance, prevent incitement and hostile propaganda, and will use the legal means at their disposal to prevent incitement on the part of groups or individuals. Both sides have pledged that their educational systems will act to advance peace between Israel and the Palestinians.

The summary was prepared, in English, by the Information Division of the Israeli Foreign Ministry and distributed by the ministry on 24 September 1995