Chapter 4

Final Status Negotiations
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In the first phase of the implementation, Israel and the Palestinian leadership dramatically shifted from their earlier positions by according mutual recognition. PLO Chairman Yasser Arafat also reiterated his acceptance of United Nations Security Council Resolutions 242 and 338 and agreed to give up all acts of terrorism in the West Bank and the Gaza Strip. In this connection, he pledged to change or modify those articles of the Palestinian covenant that contradicted these principles. These far-reaching concessions made the Israeli people to accept the Palestinian interim self-governing Authority (PISGA) that was to be set up in the West Bank and Gaza Strip following the Israeli withdrawal from this area.\(^{61}\) Though in the beginning confined to the Gaza Strip and the town of Jericho, the Authority was to be extended further to other areas of the West Bank in future. Therefore, to facilitate the extension of the PLO’s power base, the agreement set out a five-year timetable for the Israeli withdrawal from the occupied territories and redeployment of its military.

**Self-Rule and Transfer of Powers**

The Cairo-II Agreement called for the establishment of a Palestinian self-rule in the Gaza Strip and Jericho, followed by the establishment of Palestinian Civil Administration over the entire West Bank for a five-year interim period. Israel, therefore, transferred the power and functions to the Palestinian National Authority (PNA) in three stages.\(^{62}\) Firstly, responsibility for tourism, education, culture, health, social welfare and direct taxation were to be transferred. Secondly, Israel would redeploy its armed forces away from Palestinian population centres. Thirdly, elections for a new authority would be held throughout the West Bank and Gaza Strip for the Palestinian legislative council.

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\(^{62}\) Ibid. pp. 115-21.
After lengthy negotiations both parties signed an accord on 4 May 1994 (Cairo). Arafat and PLO officials returned to Gaza and Jericho in July 1994 for the first time since 1967 and it enabled Arafat to become a head of the PNA. Another agreement signed on 28 September, 1995 (Oslo-II), called for the redeployment of Israeli military from most of the Palestinian towns in the West Bank and the Palestinian elections for their president. This Palestinian self-rule not an end in itself but as merely a means to a greater goal, namely, the creation of full Palestinian state. Therefore, we need to briefly discuss the specific processes that required for transfer of power and functions to the PNA from the occupying authority.

**Amending the PLO Charter**

The post-DoP implementation process depended upon a series of conditions agreed to by both parties. First and foremost, the Palestinian would have to meet one crucial pre-conditions outlined in Arafat's letter to Prime Minister Yitzhak Rabin of September 1993 namely, to change the Palestinian charter. This was the supreme test of PNA's willingness and ability to implement the agreement. The PLO promised that the necessary changes would be made by the PNA within two months of its establishment. It became a symbol of important step in the eyes of many Israeli's (Quandt 2001:334).

**Redeployment**

The withdrawal from the major towns of the West Bank would extend the authority of the PLO to administer most of the inhabitants of the West Bank.

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63 The text of see “Israel-PLO agreement on the Gaza Strip and the Jericho area, Cairo, 4 May 1994” in *Journal of Palestine Studies* (Washington D.C) vol. XXVIII, no. 4, Summer, 1994, pp. 118-125.


Once the Israeli forces were out of the towns, elections could be held for a PA which would help to provide Arafat with legitimacy. Then he would need to continue the negotiating process. However, under the terms of agreement signed in September 1995, the Israeli redeployment remained limited (Quandt 2001:123-40). It involved the withdrawal of the Israeli Defence Forces (IDF) from all major populated urban areas in the territories and redeployment around the Arab towns and villages. For different and specific reasons both east Jerusalem and Hebron were excluded from this commitments. The area – ‘A’ where the Israeli withdrawal would be complete accounted for only three percent of the occupied territories and comprised eight cities. Another twenty percent area ‘B’, fell under Palestinian civil and administrative control, but Israeli army would have the freedom to operate. Area C which accounted for more than three quarters of the West Bank and a third of the Gaza Strip would be remained under exclusive Israeli control. This included areas occupied by Jewish settlements and military bases. Finally, on 28 December, 1995 the Israeli withdrawal from Palestinian cities in the West Bank was completed.

**Palestinian Elections**

The transition from interim self-government to full autonomy throughout the West Bank and Gaza Strip depended on the conclusion of an interim agreement. The elected Palestinian council would replace the temporary PNA by giving a popular mandate to the leadership to negotiate the final status settlement(Heller 1994:11). The areas which were vacated by Israel would form the territory where genuine sovereignty could be established. To engage in the challenges and difficulties of nation building, all powers, authority and legitimacy have to be transferred to the PNA (Ross 2002:20).

It was on this ground, irrespective of their misgivings that many Palestinian had backed the Declaration of principles (DoP), especially because it had pledged to hold “direct, free and general political election” for the PNA (Usher 1995:72).
But it linked with Israel's commitment to redeploy its military forces in West Bank and Gaza Strip.

The debates over elections go to the heart of the Israeli and Palestinian versions of autonomy and what was probably the most significant political struggle in the interim period. Either Israel would succeed in imposing upon the Palestinian an autonomy whose primary goal was to secure Israel's security and territorial interests or the Palestinians would be able to wrest the rudiments of a law based on democratic polity to resist the Israeli version and would lay the bases for future national sovereignty.

Finally, the Palestinians held elections for their president and the eighty eighty-nine seat legislative council in January 1996. Most of the Palestinian participated enthusiastically in those elections, which was the first time they ever had an opportunity to choose their political representatives and to give legitimacy to a new political order (Shikaki 1996:17). It had a significant impact on national reconstruction, democratization and the peace process. For Israelis it gave confidence that the vast majority of Palestinians who took part in the elections supported the peace process.

**Palestinian National Council (PNC)**

The PLO and the majority of Palestinians despite reservations and suspicions had accepted a compromise agreement to end the long, bitter conflict with Israel. Still significant minorities of radical Islamic and nationalist forces rejected any deal and were determined to wreck it. Within Israel too, there was heated debates

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66 Since the establishment of the Palestinian Authority in May 1994, the opposition has advocated democracy because it feared suppression by the Palestinian National Authority during the interim phase and early empowerment. In this context, the question of election to the Palestinian Authority's legislative Council was at the core of Palestinian politics, perceived by most Palestinians as a useful instrument in the process of nation building and democratization. Many Palestinians also deemed elections useful for unification of the West Bank and Gaza Strip for the inclusion of Jerusalem Palestinians into the process of building a nation and national institutions, and for the creation of a legitimate and accountable system of government that will respect individual civil liberties and human rights. But for the many Palestinians who identify with the opposition, the elections had negative repercussions; providing legitimacy to Arafat's and Fatah's dominance and to the negotiated agreements.
over whether peace could be achieved and what form of a solution should it take place.

But achieving a Palestinian state proved to be a very difficult task mainly due to two reasons; first, the PNA was still engaged in tough, complex and lengthy negotiations with Israel over how, when and whether such a state might be created at all. Second, Palestinians themselves were in the midst of one of the world's most difficult state-building processes (Ma'oz 1996:15). Therefore, the PNA had to handle a wide range of domestic issues even while trying to prove its ability to fulfil its commitment to Israel.

**Mutual Complaints over Implementation**

The delay in carrying out those provisions of the Oslo accords made Israelis and Palestinians to be increasingly suspicious of each other. That suspicion was compounded on Israeli side, by terror attacks carried out by Hamas and Islamic Jihad suicide bombers against Israeli civilians. On the Palestinian side, the Israeli actions which pre-judged the outcome of the final status talks such as building settlements and changing Jerusalem's demographic conditions caused apprehensions over Israel's peaceful intentions. As a result, both sides were extremely unhappy with each other over implementation. Israel levelled a number of charges against the PNA and its chairman Arafat accusing both of violating the Oslo accords. These charges include 67:( Blumberg 1998:183-84)

- Building a police force of 34,000 without submitting a list of their names to Israel. The Oslo accords had provisions for only 24,000 personnel and furthermore the PNA officials declared that they intended to build a national guard of 80,000 conscripts even though there was no agreement for such a force.

- Importing of heavy weapons from Egypt, including artillery pieces in excess of the light weapons allowed for a police force.

67 For details of these charges made by Israel against the PNA's policies and activities see in Blumberg 1998:183-84)
• Allowing the Palestinian police to open fire on Israeli police and soldiers.

• Failure to confiscate weapons and disarm the private militias runs by Hamas and other anti-Israeli groups that were operating in areas under the control of the PNA.

• Failure to extradite suspected terrorists sought by Israel.

• Failure to use the PNA court system to punish those Palestinians accused of terrorism and other who incited violence against Israel. Suspects were usually arrested and were subsequently freed, except in rare cases when the U.S. demanded more actions.

• Harassment of those Palestinians who had collaborated with Israel in the past. The PNA courts sentenced to death those Palestinians who had sold lands to Jews. An increasing number of Arab landowners were murdered under suspicious circumstances.

• Allowing a large number of buildings to operate as PNA offices in the Jerusalem area including the Orient House in East Jerusalem that had essentially became a foreign ministry dealing with the representatives of foreign nations68 (Peleg 1994:117).

In other words, Israel’s principal failures to implement the Oslo- II could partly be attributed to the PNA’s refusal to continue the negotiations. The Palestinian leadership often dismissed Israel offers as meagre and unacceptable.

For its part, the PNA had also levelled a series of complaints against Israel and they include:

• Israel had selectively implemented the accords only focusing on those aspects which highlighted its complete control of borders, all security matters in the Palestinian “self rule” area and the rest of the territories. These areas granted Israel a veto in all matters of importance to

Palestinian life while at the same time delaying those areas pertaining to Palestinian autonomy.

- Delaying the transfer of specified functions to the PNA and using various tactics to get round the deployment of Israeli troops in the West Bank (away from populated centres), a pre-requisite for elections to the self-rule council.

- It highlighted settlement activity in the West Bank. In the 1993 DoP Israel pledged not to change the status of the occupied territories pending final negotiations. Yet settlement expansion throughout the peace process was accelerated at a frantic pace, continually shrinking and dividing the land that would constitute any future Palestinian state. Behind the settlement drive during those years under discussion were a long and elaborate system of government incentives and subsidies and a powerful network of political support that include both major parties-Labour and Likud. The settlement expansion required the confiscation of more lands. Thus, Palestinian lands were seized for new settlements, new housing and amenities in existing settlements, and to expand the security cordon\(^69\) (Aronson 1994). The labour initiated housing construction was 4,000 until 1992, and the current settlement population 140,000 (until 1994) and the population increased during Rabin’s era was 28,000 excluding East Jerusalem.\(^70\) And 29,000 dunums of lands was confiscated until 1999.\(^71\) In addition to it the total number of demolition of houses by Israeli authority was 210 homes until 1994 and still carried out at a rate of about 50 per year.\(^72\)


\(^{71}\) See the complete figures in relating to Israeli policies “East Jerusalem Indicators Relating to Israeli policies” in *Journal of Palestine Studies*, 24 (1) 1994: 114-22.

\(^{72}\) Ibid, pp.114-22.
• Since 1967, every Israeli soldier has had the right to detain any Palestinian person if the soldier had grounded for suspicion that the detainee might have committed or intend to commit a security offence. Persons may be detained for 18 days without charge and without access to lawyers. Under the Oslo accords, Israel retained the right to arrest, interrogate, and imprison any Palestinian including those who come from area A. Each bloc of settlements has constituted independently defended areas with separate headquarters, observation and guard posts, a circumferential electronic fence, and security roads. The Palestinian police force has not been permitted to enter these areas or use roads passing through them. These provisions significantly undermined the authority of the PNA in maintaining order even inside those areas under its administrative control.73

• Operating special units against Palestinian militants in areas under the control of the Palestinian Authority. The IDF soldiers manning roadblocks at the entry to Palestinian areas, especially in Gaza Strip, has warn both settlers and Israeli visitors that entry into these areas is their own responsibility. Settlers known to be “troublemakers”. Israel continuously claimed and used the security requirements to claim that the PNA had failed to carry out its obligations under Oslo accords74.

• Delays in the release of thousands of Palestinian prisoners languishing in Israel jail without any trial. Mostly the members of the radical group opponents of the peace process.(Rubenberg 2003:194)

• The use of collective punishment, especially closure of territories. The closure meant that Palestinian and Palestinian goods would not be allowed to enter Israel unless a permit was obtained previously. Israel retained the power to determine who, what, and how many would be allowed to enter Israel during closures. This policy was selectively applied solely to

74 Ibid, 114-115.
restrict the movement of Palestinian person and products. Israeli citizens (including settlers), goods, and tourists had freedom to cross boundaries when the closure was in place. Israel has employed four (general, partial, internal, and total types of closures since 199375.

- Passing of laws in the Knesset banning PLO activities in Jerusalem76 (Peleg 1994)
- Unilateral Israeli freeze of its economic agreement with the PLO, which worsening the economic conditions of Palestinians. (Roy 1994)
- Failure to establish the Gaza-Jericho safe passage route as undertaken in the Oslo accords (Hilal 1995:20-21).

The implementation of the agreements in practice then was a far cry from the commitments made in these documents. This reflects the tension between the two sides and widening gulf between popular expectations and political fulfilment. In short the whole arrangement 77 sounded like a series of agreements dictated by Israeli generals upon the Palestinian team that lacked any professional expertise in legal and strategic matters (Said 2001).

**Final Status Negotiations**

The parties were united on the principle of territories for peace, known in Israeli political parlance as the territorial compromise. Unlike the Likud, there were no sign among Labourites in the 1980s of an ideological commitment to the idea of a greater Israel, even among Labourite hawk, of whom, like Rabin publicly

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77 There are chronological order:
The agreement on the Gaza Strip and the Jericho area signed on 4, May 1994, this was followed by the agreement on the preparatory transfer of powers and responsibilities (Israel-PLO) signed on August 29, 1994. The came Oslo II: interim agreement between the Israel and the Palestinians signed on 28 September 1995. This agreement has seven annexes dealing with among other things, redeployment, Palestinian elections, economic relations and cooperation on security matters. It has 9 maps attached to it dividing the areas of the west Bank into A,B,C. to the level of Israeli presence under the redeployment. The east map defined the Israeli withdrawal from the Hebron.
proclaimed the Jewish people’s right to all of Palestine. The territories acquired in 1967 were thus to be exchanged for peace. Despite the fact that proposals for unilateral measures were aired by party members, the party remained firm on the issue of a negotiated settlement. The military deployment and administration in the Israeli ruled territories were regarded as temporary until a permanent solution agreeable to Israel and Palestinians was attained.

It was, therefore, in the second phase that Israel and the PLO began ‘Final status’ talks just before the May 1996 Knesset elections. The goal was to complete these talks and sign a treaty in three years by May 1999.\(^78\) Given the past record this timeframe looked unrealistic. The issues of the final status are the most difficult and critical in nature such as Jerusalem, Palestinian control of territory and statehood, right of millions of Palestinian refugees to return home, water, border and settlements. These issues would be difficult if not impossible to negotiate even if all sides had the will to do so. This assumed that the mutual confidence built by settling minor issues would generate enough good will to produce enough trust needed to handle and resolve difficult problems. Experience, however, showed every step in the implementation of Oslo accords led to new tensions, generated new accusations, and produced new expectations which made negotiations over all contentious issues harder and not easier.

**Progress on Deferred Issues**

Developments during the interim period were sufficiently positive and reasonable to justify, indeed, require, continuation of the process. Despite delays hope for progress was periodically fulfilled as both sides entered into negotiations for a permanent settlement. It is important to discuss briefly on the progress of issues that were deferred to the final status negotiations and the progress made during the tenure of the Rabin-Peres government.

Jerusalem Question

Jerusalem is the toughest issue of all. The city is holy to three faiths and each has elements of monotheism and doctrinal exclusivity and a cultural divide (Karsh 1997:193). This is a unique holy place in the world. However, since 1967 Israel has been facilitating its objectives of permanent, unified, sovereign control of the city. As a result of all those issues affecting the holy place such as municipal administration, town planning, security for ethnic and minorities, both side had specific the historical claims. The issue therefore much more serious than whether to keep the city of Jerusalem united or divided (Indianapolis 1996:45).

Under the DoP sign on 13 September 1993, both sides would reach an agreement during the interim period the fate of the territories that were occupied by Israel during the June war of 1967.79 Though it was not included in any agenda of the interim phase of the process, the negotiations about its future were deferred in the DoP to final status talks. As the Article 5 of the DOP stated “permanent status negotiations will commence as soon as possible but not later than the beginning of the third year of the interim period. The Article further stated that “it is understood that these negotiations shall cover remaining issues including Jerusalem.”80

For Palestinians, Jerusalem is also of paramount historical, political, social, religious significance (Rubenberg 2003:194). The walled city was part of the Palestinian territories that Israel conquered in 1967. The UN Security Council resolution 242 explicitly referred to the “inadmissibility of the acquisition of territories by force.” (Rubenberg 2003:17) Therefore, both before and after the DoP Arafat repeatedly and continuously spoke about the goal of establishing a Palestinian state with Jerusalem, or al-Quds in Arabic, as its capital. To this Shimon Peres responded by saying the Arafat was entitled to his dream (Steinberg 1997:219).

The Palestinians established a number of institutions in East Jerusalem including a quasi-foreign ministry operating out of the Orient House. Palestinian security forces also active in Jerusalem (Steinberg 1997:219). Thus Palestinian expected the Oslo process would lead to the eastern part of the city becoming the capital of their independent state.

Six months after the signature of the Oslo agreements of 1993 Arafat visited Johannesburg for the inauguration of South African President Nelson Mandela. There he enjoined local Muslims at a prayer in the largest mosque of the city. Speaking on the occasion Arafat asked the South African and other Muslims to join the *jihad* to recover the Jerusalem. He also compared the Oslo accords to the *Hudaibiya* treaty concluded by Mohammed with the people of Mecca in 628 that was reneged two years later when the situation tipped in his favour (Israeli 2004:83-84). Sometime during a closed-door speech in Bethlehem, Arafat made references to the practices of Caliph Umar and the Byzantine patriarch Sophronius vis-à-vis agreements that were subsequently reneged.

In the spring of 1994 these remarks became public knowledge when a reporter who was attending this Johannesburg congregation released the containing Arafat’s remarks. It became a major issue in Israel because it gave an impression that Arafat was not fully committed to the Oslo process and was hinting at reneging it when the situation becomes favourable to him.

Although the Rabin-Peres government made some concession but the Israeli right wing saw the activities of Palestinian in Jerusalem as a violation of Oslo accords. The Likud charged that the Labour’s policies tacitly encouraged the Palestinian presence in the city. Even Israeli public opinion strongly opposes any change in the status of Jerusalem (Israeli 2002:220). The systematic exploitation and deliberate destruction of the Jewish quarters during the Jordanian/Palestinian occupation of the walled city between 1948 and 1967 remained a major factor in public opposition to compromise on Jerusalem (Israeli 2002:220).

The city of Jerusalem represent the cultural, political and religious identity for people of Israel. During the 1996 Israeli national election, the opposition Likud
began to accuse the Prime Minister Peres of planning to divide the city and permitting the Palestinian to take part of it as a national capital. But Peres like Rabin committed and pledged to keep Jerusalem undivided and under full Israeli sovereignty. The Labour also announced that they would tighten control over Orient House and forbid visits and meetings by foreign dignitaries (Israeli 2002:197). Peres also denied the report that secret talks were already were held on this issue.81 In his campaign speeches, he declared “like a solid rock, we will stand firm on a United Jerusalem as the capital of Israel. Similarly, Chief of Army Staff Lt. Gen. Ehud Barak stated that in the final status talks “our position will be that greater Jerusalem should remain undivided under our sovereignty, the eternal capital of Israel (Steinberg: 1997:219). There was a wide convergence of opinion inside against re-partition of Jerusalem.

At the same time, Jerusalem or al-Quds evokes strong resonance among the Palestinians. In the Islamic religious discourse, the city is the third holies place after Mecca and Medina. the ability of the Palestinian leadership to secure the support of the Palestinians and the wider Islamic world, depended entirely upon reiterating and thereby hoping to regain political control over the eastern part of the city, including the Islamic holy cites such as harem al-Sharif and the al-Aqsa mosque. Without that the legitimacy of the PNA and PLO would have been compromised.

There was an additional fear. If the PNA appeared to be compromising on the question of Jerusalem then Hamas and other Islamic radical groups would gain at the expense of the PLO. It therefore became essential for the PNA to espouse dreams that remained whole than to accept inevitably incomplete realities (Hass 1996:56).

By the time Peres lost the Knesset elections in May 1996, the Oslo accords did not build enough confidence and mutual trust that could facilitate

81 Immediately after the interim agreement was signed, an unofficial agreement (the framework for the conclusion of a final status issues between Israel and PLO) was concluded and came to public few days later. Yossi Beilin and Abu Mazen as well as Yair Hirschfield and Ron Pundak, were involved in the secret talks that resulted in this agreement.
accommodation on the issue. Because of the presence of Jewish and Islamic holy sites within the walled city, Jerusalem could not divided as East Jerusalem being the capital of the Palestinian state and the western part to be Israel’s capital. However, there will never be a lasting settlement of the Israeli-Palestinian conflict without a solution to the status quo of Jerusalem acceptable both most Israelis and most Palestinians. But in May 1996 both sides were far away from reaching that position.

**Refugees**

On the issue of refugees, Israel has adhered to a position that was consistent with its policies during the previous forty years. In its assessments the Palestinians who became refugees in 1948 must be resettled in abroad and that then would never be allowed to return to their original homes that had become Israel. Over the years, Israel consistently refused to take part in any discussions touching on the final settlements on the refugee issue.

Throughout the Oslo peace process Israel had categorically rejected the Palestinian right to return and opposed to any negotiations with the PLO or neighbouring Arab states on the principle of UN General Assembly resolution 194 adopted in December 1948 (Masalha 2003:225). The DoP also did not address seriously the status of the Palestinians who became refugees of as result of the 1948 and 1967 wars. But resolution 194 remained a determinant factor in any meaning negotiations concerning Palestinian refugees.

In addition, both as a basic principle of human rights and as an individual right, the right to return was central to Palestinian positions at the Madrid peace conference in 1991. Haider Abdul Shafi, the head of the Palestinian delegation, spoke about Palestinians coming to Madrid to narrate their story. He also argued that the Arab countries were economically incapable of absorbing the refugees and majority of the refugees including those in the occupied territories would prepared to go back to their original home inside Israel (Masalha 2003:225). According to the Palestinian narratives Israel forcibly expelled scores of Palestinian Arabs from their homes in 1948, making them refugees. Therefore,
these refugees and their descendants have the inalienable right to return to their
previous homes in Israel or accept compensation for it. Israel should
acknowledge its moral responsibility for the injustice perpetrated upon those
refugees (Ginat and Perkins 2004:109).

The Oslo agreements opened up the possibility of Israeli agreeing to some
refugees being resettled in the areas controlled by the PNA. But the discussions
in the multilateral refugee working groups initiated within the context of the
Madrid peace process, failed to link UNGA resolution 194 and the right to return
with the Oslo accords. Both the actual Madrid peace process and the Oslo
accords were anchored in UNSC resolution 242 and 338 that were adopted
following the 1967 and 1973 wars respectively. But the fate of the refugees was
handicapped by the absence of any direct reference in the DoP to UN resolution
194 but merely stated that issues relating refugees were to be discussed in the
final status talks (Elias 1994:7).\textsuperscript{82}

It was within this framework of bilateral negotiations that the Israeli policy
manifested a slightly modified form from the past. In the aftermath of the Oslo
accords the Rabin-Peres government had sought to address issues related to the
final status talks. The question of refugees was negotiated for the first time in
history between Israel and the Palestinians. This negotiation had some
substantive as well as procedural implications for Israel’s policy towards the
refugees. By accepting the PLO as interlocutor for Palestinian interest, the
Rabin-Peres government was acknowledged that the resolution of the refugee
issue would take place within the context of the establishment of a Palestinian
entity (or mini state) in the West Bank and Gaza Strip (Rubin 1999:155).

Israeli repeatedly emphasized that such an entity could possibly have the
capacity or the space to absorb all or even most of the 1948 refugees. As Yossi
Beilin, a key architect of the Oslo process viewed (Masalha 2003:126).

\textsuperscript{82} The fate of the Palestinian refugee has been subject of a Refugee Working Group (RWG)
within the framework of the multilateral peace talks set up in the wake of the Madrid
conference in 1991. It was basically a technical body and intended to suggest practical
solutions that would feed into political negotiations.
• That the resolution of the Palestinian refugee issue would be viewed largely within the context of a Palestinian entity in the West Bank.

• That the Oslo process would put an end of refugee claims.

A key PLO slogan for many years was that the organization represented “all our people in all places inside and outside their homeland”. As Arafat observed during a Fatah meeting in 1995 the organization “will remain the symbol of Palestinian people at home and abroad”. A prominent PLO official remarked after the Oslo accords, “we must not ignore our people’s daily problem in all parts of the world” (Rubin 1999:155-56). The Palestinian thinking however, has shifted that the refugees must return to the land controlled by the PNA and the future Palestinian state. Arafat opened a Palestinian refugee conference in September 1996 with the declaration “Palestine is for Palestinian and their right to return to it in sacred” (Rubin 1999:155-56).

Another such meeting had rejected the concept of compensation for their property lost in 1948 in exchange for giving up their right of return to their erstwhile homes, now the State of Israel. The PNA kept open its option of demanding a return for all Palestinian refugees to Israel. At the same time, it knew that Israel would never accept such a solution therefore the PNA would some day either have to let this stand wreck the whole negotiations or make a far-reaching concession on that point.

Since 1948 successive Prime Ministers have highlighted Israel’s uncompromising position vis-à-vis the refugees. Likewise the Palestinian leadership and Arafat had maintained that the right to return must be an integral part of any final settlement with Israel.

**Jewish Settlements**

The issue of settlements remained another contentious issue that dominated the peace negotiations during the Rabin-Peres government. In the Article 31, clause 7 of the DoP declared that “neither side shall initiate or take any step that will change the status of the West Bank and Gaza Strip - pending the outcome of the
permanent status negotiations.\textsuperscript{83} But from 1994 onwards, Israel had renewed its construction efforts including building new settlements and expanding old ones and erecting border fences that delineated the partition of the West Bank, prior to negotiations. Massive land confiscation and settlement expansion marked in the four Year (1992-96) of the Labour premiership.\textsuperscript{84} Even persons like Beilin also supported a policy whereby most of the settlers would remain under Israeli sovereignty and in which Israel would not have to dismantle those settlements that would be ceded to the Palestinian control in the final status arrangement (Steinberg 1997:218-19).

As the 1996 Israel election have shown, the majority of Jewish voters were willing to enforce the Israeli version of the Oslo accords. Rabin was willing to dismantle isolated settlements but not involve in any confrontation with the settlers. Throughout his tenure he never explicitly referred to dismantling even the isolated and sparsely populated Jewish settlements in the occupied territories. He hoped to coerce the Palestinians into accepting a mini-state in return for full peace. As his own assassination revealed even this concession was not acceptable to influential group of settlers and their supporters inside Israel. Explaining his action, his assassin Yigal Amir claimed that Rabin was elected on the basis of the support of the Arab Palestinian minority inside Israel and hence his legitimacy was questionable (Pappe 2004:225).

The political goals and tactics of the settlers were dramatically opposed to those of the Palestinian residents of the occupied territories. The settlers and their leaders sought that the West Bank and Gaza Strip would be eventually absorbed into Israel. Their presence was an explicit effort to preclude the formation of a territorially unified Palestinian state in the occupied territories (Lesch and Schirgi 1998:113). Furthermore as the killing of Muslim worshippers in the Ibrahimi mosque in Hebron in February 1994 indicated, the settlers used a host of


violence and other intimidating tactics against the Palestinians. Despite widespread media publicity the Jewish settlers who indulged in such violence were rarely prosecuted by the state. In short, throughout its tenure the Rabin-Peres government pursued an active settlement policy, confiscated Palestinian lands and adopted a tolerant attitude towards the Jewish settlers who indulged in violence against the Palestinians.

**Water**

Allocation of scarce water resources remained a major dispute between Israel and Palestinians. The major portion of the recharge areas for the mountain aquifer lay in the West Bank (Karsh 1996:218). But it flows naturally into Israeli territory both to the northeast and to the west. Thus major portions of the ground water that gathers in the West Bank springs, rivers and wells flow towards Israel. It is immediately after the 1967 war Israel seized control over all the water resources in the West Bank and Gaza Strip and placed under the authority of military officials in the change of administration. In 1982, control was given to Mekorot, Israeli national water company. Israel has experienced serious water shortage as well as increasing salinization of its water supply. Thus, by 1986, around one quarter of the water used by Israel annually inside the green line for irrigation and consumption, came from the West Bank. The water situation in the Gaza Strip is even more severe than in the West Bank because consistent over pumping have lowered the volume of the water table and caused seawater to enter it (Rubenberg 2003:119-20). Water is becoming increasingly salinated, damaging the quality of agriculture and causing shortage for consumption.

This had become a serious threat to the Palestinian future. Therefore, equitable sharing of scarce water resources has become essential for any permanent peace settlement between Israel and Palestinian. This would mean cooperation on managing existing and developing new water resources. However the negotiations over water issue also were postponed for final status talk in 1995.

From the onset of the Madrid peace conference, water was considered a pivotal issue and included for discussion at both the bilateral and multilateral
negotiations. On 27-29, April 1992, even before the Oslo, an agreement was reached between Israel and the Palestinians that the question of water rights would be discussed within the bilateral framework. On 15 September 1993, an agreement in principle was reached between Israel and Palestinians, which among other things included the establishment of a Palestinian water authority. The agreement contained a clause stating that the future control of water sources and administration would be determined in the final stage of discussions because this issue was connected to the determination of the permanent borders between Israel and the Palestinians.

Article VII of the DoP gave the interim Palestinian self-government Authority the power to establish several institutions to promote economic growth, including Palestinian water Administrative Authority but in cooperation with Mekorot. Together, they were to create the joint water development programme. In annex III ‘proposal on Israel-Palestinian cooperation in economic and development programme’ water was the first item to be listed. Specifically, both parties agreed to cooperate on a water development programme to be prepared by experts from both sides. The programme was to include: a mode of cooperation on the management of water resources in the West Bank and Gaza Strip and proposal’s for studies on each party’s water rights and for equitable utilization of these joint resource during the interim period and beyond. Annex IV, listing proposals for possible Israeli-Palestinian regional cooperation included a Mediterranean-Dead Sea canal through Gaza and desalination projects. These DoP proposals were clearly aimed establishing a basis for extensive future cooperation on water resources between Israel and the Palestinians (Rouyer 1997:70).

85 The multilateral talks opened in Moscow on 28, January 1992 and discussed refugees, environment, regional economic development, arms control, and regional security issues. Further multilateral talks were held in Lisbon (May 1992), London (December 1992), Moscow (July 1993), Tokyo (December 1993), and Tabarka (July 1994). Additional talks on water took place between May 1992 and April 1994 in Vienna, Washington, Geneva, Beijing, Muscat, and Athens. They were devoted to issues such as desalination, treatment of recycled water, and training of personnel for water projects were were aimed at creating a positive atmosphere among former rivalry states regarding water sharing.

Under the Gaza-Jericho agreement on 4 May 1994 (Cairo) the PNA was given jurisdiction over the Gaza coastal aquifers (though none of the West Bank aquifers) and control over managing and developing water resources in these areas including existing wells and the right to drill new ones. But the document specifically mentioned that all Israeli settlements and military installations in the West Bank and Gaza Strip were exempted from PNA/PWA authority (Rouyer 1997:71). The result was that despite formal PNA control over the coastal aquifer (as well as required cooperation in its maintenance) Israel enjoyed unrestricted access to water resources in the occupied territories. Furthermore the PNA agreed to share its water data with Israel because both sides agreed that data exchange was necessary to prevent further aquifer deterioration.

Further Israel also agreed to supply additional 28.6 Mcm/y of water for domestic use by Palestinian in the West Bank and Gaza Strip during the interim period from its own water system. Israel also agreed to supply the Palestinian 9.5 Mcm/y including five Mcm for Gaza. The remainder was to be developed by the PNA from the eastern aquifer (Rouyer 1997:71).

On 18, September 1995, an interim agreement was signed between Israel and the Palestinians on additional withdrawals of Israeli army forces from West Bank cities. This agreement referred that the distribution and use of water regime in the West Bank was postponed by the parties to the final stage of the agreement (Soffer 1999:176). This was supposed to begin in mid-1996.

All these steps were a good sign of peace and implementation. But for Palestinian perspective, it was far from satisfactory without movement towards the final status talks. There were two additional reasons. In the non-binding and non-enforceable nature of agreements, the Palestinians had no point of reference for the resolution of their disputes with Israel. Second, there was an unequal balance of power in favour of Israel both the local scene in term of military might and on the international scene in term of resistance to political pressure from the international community (Haddad and Mizyed 1997:12). While treaties could be accepted as a basis, these documents were referred to by both sides as
justifying their respective positions. While Palestinians also aspired for the full control over the mountain aquifer a peaceful outcome of this dispute must involve not only mutual management of shared natural water resources but also cooperation with Israel on developing new water supplies. With these mutual steps in the direction of accommodation, had Peres been re-elected in 1996, the water negotiation might have moved towards completion.

**Borders**

The 1967 war resulted in direct Israeli rule over a large number of Palestinians. This made the issue of Israeli-Palestinian borders more important than ever before. The 1967 war has made increasingly internalized the conflict especially in view of increasingly bolder Israeli claims on territories heavily inhabited by the Palestinian Arabs (Barzilai and Peleg:1994:64).

At a conference organized by Rafi, in Tel Aviv in August 1967, Defence Minister Moshe Dayan declared, “The primary issue before us is that of Israel’s boundaries” (Schweitzer 1986:41-42). This was a momentous remark. To the degree that Dayan could obligate Mapai, his former and future political home, he was set out a new national agenda, at the centre of which lay the establishment of new borders for Israel. Since the declaration of independence on 14 May 1948 the question of borders had not been concerned the Israeli public. Since the 1949 ceasefire agreement, people regarded the borders as if they were as permanent, and applied themselves to improving their economic position as individuals and to the advancement of the state within the existing frontiers.

The June war, occupation of new territories and the birth of Jewish settlements in the occupied territories gradually changed the Israeli attitude. Yigal Allon, one of the prominent ministers in Levi Eshkol’s government, even went further as to present a plan accompanied by a detailed map, according to which the West Bank was to be divided between Israel and Jordan. This clearly indicated that Dayan was not the only to hold this view.

The importance of the borders had never been in doubt. But against the background of the June war, and in view of Israel’s comparative position before
and after it, the IDF rose several degrees in the hierarchy of national value. Dayan was not alone in calculating that this would be the permanent patterns for the internal settlement between Jews and the Arab inhabitants of Palestine, a pattern which could last for ever (Schweitzer 1986:41-42). Even Rabin in the Oslo negotiation declared that the long term goal of the negotiations and interim agreement was to 'reach peace with a Palestinian entity in West Bank and the Gaza Strip, but not based upon the 1967 borders (Karsh 1997:216).

The policy of a successive Labour and Likud governments, has been trying to maintain the differentiation between Israeli settlers and Arab inhabitants in the occupied territories. This was to be done without pursuing aggressive moves such as withdrawal from the territories or annexing them immediately. The Likud governments, ruling Israel for most of the period 1977-92 has promoted a comprehensive settlement policy designed to lead to a creeping and eventual annexation of the occupied territories, especially the West Bank (Karsh 1997:216).

But the Oslo accords were based on territorial re-partition. This did not undertake to determine the exact nature and location of the lines of compromise and this was left to the future negotiations. Because control of one's borders, including the right to decide who or what may enter and exit them, is an important facet of sovereignty, both sided decided to defer it to the final status phase. Under Oslo Accords, this problem was dealt with operationally without having to tackle the repercussions over the sovereignty issue. Since the goal of the first two stages of the Oslo process was not the establishment of a sovereign Palestinian state, but rather an interim arrangement for autonomy for the Palestinians, this issue could be addressed without prejudice in the final settlement. The Palestinians went along with this Israeli interpretation accepted ultimate Israeli control over their external borders. Oslo I (the Gaza-Jericho Agreement) stipulated that all the areas under Palestinian control would be regarded as within an Israeli security cover and thus Israel would 'maintain
security control and supervision over the entry of persons, vehicles and weapons of all points of entry.\(^{87}\)

This agreement created only temporary lines to repartition around the Palestinian cities and much of the Gaza Strip. It was understood by both sides that these lines were strictly interim one. The Palestinians understandably interested in maximizing the green line – aside from some minor modifications to be their future border. The Palestinians made the point that they would require the whole of the West Bank and Gaza Strip to create a viable state with a space to resettle refugees and build industries (Karsh 2000:217). Any reduction in the territorial scope of their state, they argued, would diminish its viability and therefore would be unacceptable to them. They were already constrained by the absence of a direct territorial link between the West Bank and Gaza Strip.

From Israel's point of view, three issues were very important vis-à-vis the negotiations on borders, namely, security, resources and Jewish settlements (Karsh 2000:217). It was accurate to say that Israel was interested in annexing as strategic territories and territories with sizeable Israeli populations on the West Bank as possible so as to ensure that Israel would be able to enjoy the added strategic depths provided by the West Bank. It also hoped to control some of the land above the mountain aquifer and not to dismantle most of the existing Israeli settlements. Israel wanted to retain external control over the borders of these areas in the West Bank and Gaza Strip that would eventually make up the Palestinian ‘entity’. The control of the Egypt-Gaza-Jordan border has been a high priority for Israel. This is due to the possible dangers that extremist elements might try to enter the territories and might create violence. Once goods were smuggled into the territories it might become a difficult task to prevent them from entering Israel.

Therefore, Israel insisted on maintaining long term military deployments within the West Bank and Gaza Strip to ensure its security against external aggressions.

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\(^{87}\) This was also mentioned in Annex I: Protocol concerning redeployment and security arrangement, the interim agreement on Palestinian autonomy, article XIV.
It demanded placing early warning systems on the heights of the West Bank to alert the armed forces to air raid and guarding the South and the Gaza Strip that borders on Egypt and the Sinai Peninsula. Israel forces remained alert to protect those Israeli settlements that would remain on the West Bank and Gaza Strip in the post-final agreement era.

The Palestinians, however, insisted that they must control the aquifers so that they can use a fair share of water rather than merely a fraction of that were currently allocated to Jewish settlers in the occupied territories. They also sought that control of resources should be the sovereign prerogative of a people with full self-determination. They tried to assure Israel that they would not attempt to divert water from Israeli territory. They also argue that Israeli troops must withdraw entirely from the West Bank and Gaza Strip and that their continued presence would be politically provocative and would deny the Palestinian their sovereignty. Noting the specific limitations in armaments in the Oslo accords, they maintained that a demilitarized Palestinian area could not threaten Israel and would serve as a buffer zone for Israel. The governments of Egypt and Jordan also pointed out that the peace treaties have altered Israel's strategic context (Karsh 2000:217-18); (Barzilai and Pelleg:1994:61-69). In the era of peace, they argue, Israel need not militarily dominate the Jordan valley or Palestinian areas adjacent to the Sinai Peninsula, which could be monitored by international force and largely demilitarized.

However, fears that the Netanyahu could win the 1996 election and thereby alter official Israeli positions on various issues played havoc. The Rabin-Peres government and the PNA were on the right direction to resolve all the outstanding issues steadily, despite some disagreements on certain issues. After the victory of Netanyahu in 1996 election reversed all the principles and guidelines for future negotiations and declared that the "Peace for Peace" rather than "Land for Peace", non-negotiability of Jerusalem and to close down Palestinian institutions in East Jerusalem, autonomy rather than statehood, expansion of Jewish settlement (Morris 1996:80-82). This gap between the PLO's position and Palestinian aspiration and expectation on the one hand and