Israel, Palestine, and the Oslo Accords

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Abstract

This Comment addresses the Middle East peace process, focusing upon the relationship between Israel and Palestine. Part I discusses the background of the land that today comprises the State of Israel and its territories. This Part summarizes the various accords and peace treaties signed by Israel, the Palestinians, and the other surrounding Arab Nations. Part II reviews commentary regarding peace in the Middle East by those who believe Israel needs to surrender more land and by those who feel that Palestine already has received too much. Part II examines the conflict over the permanent status negotiations, such as the status of the territories. Part III argues that all the parties need to abide by the conditions and goals set forth in the Oslo Accords before they can realistically begin the permanent status negotiations. Finally, this Comment concludes that in order to achieve peace, both sides will need to compromise, with Israel allowing an independent Palestinian State and Palestine amending its charter and ending the call for the destruction of Israel, though the circumstances do not bode well for peace in the Middle East.
ISRAEL, PALESTINE, AND THE OSLO ACCORDS

Jill Allison Weiner*

INTRODUCTION

Israel's history has always been marked by a juxtaposition between two peoples—the Israelis and the Palestinians—each believing that the land is rightfully theirs according to their religion and history. In 1897, Theodore Herzl wrote *Der Jeden-

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* J.D. Candidate, 2000, Fordham University School of Law. This Comment is dedicated to my parents, whose support and patience made it possible.

1. The *Europa World Yearbook* 1782 (39th ed. 1998) (describing Israel as small country located in Asia). The western border of Israel is compromised of Egypt and Mediterranean Sea. *Id.* Lebanon is located directly north of Israel. *Id.* Syria is to the northeast and the Dead Sea and Jordanian land comprise the rest of the eastern border. *Id.* This region was part of the Ottoman Empire from 1516-1917, and then was under a British mandate from 1923-1948. *Id.*

2. See Larry Collins & Dominique Lapierre, O Jerusalem! 23 (1972) (stating that there were 1.2 million Arabs in Palestine at time of partition). But see, e.g., Justus R. Weiner, *The Palestinian Refugees' "Right to Return" and the Peace Process*, 20 B.C. Int'l & Comp. L. Rev. 1, 4 (1997) (explaining that "Palestinians" are split into refugees and displaced persons). The first group is the Palestinian refugees who left the land in 1948. Weiner, supra, at 4. The second group is comprised of the refugees' offspring and displaced persons, which are people who left in 1967. *Id.* Both of these numbers are difficult to tally. *Id.* at 7.

3. See Europa, supra note 1, at 1782 (stating Judaism is officially recognized religion of Israel); see also Whitaker's Almanac (131st ed. 1999) (stating 90% of Palestinians are Muslim and other 10% are Christian).

4. See John R. Hinnells, A *Handbook of Living Religions* 21, 135 (1984) (stating that Abraham, as first monotheist, is considered by Jews to be first Jew and by Muslims to be first Muslim); see also The Koran 17:1 (stating God "made His servant go by night from the Sacred Temple [Mecca] to the farther Temple [Jerusalem] whose surroundings We have blessed . . ."). According to the Old Testament, God said to Abraham: I will maintain my covenant between Me and you and your offspring to come as an everlasting covenant through-out the ages, to be God to you and your offspring to come. I give the land you sojourn in to you and your offspring to come, all the land of Canaan [the historic name for Israel], as an everlasting possession. *Genesis* 17:7-8. According to the Old Testament, "the Lord Appeared to Abraham and said, 'Unto your seed will I give this land!'" *Genesis* 12:7. Abraham had two sons: Ishmael, from whom Muslims believe they descended, and Isaac, from whom Jews believe they descended. See The Koran 14:42, 2:127 (stating that Abraham and Ishmael built Ka'bah at Mecca for Day of Atonement). Isaac, according to the Old Testament, renewed Abraham's covenant with God that Canaan would be the land of Isaac's descendants. *Genesis* 36:2, 3, 4; Jasmine Jordaan, Proposal of Dispute Resolution Mechanisms for the Israeli-Palestinian Oslo II: A Crucial Step in Establishing Long-Term Economic Stability in Palestine and a Lasting Peace, 23 Brook. J. Int'l L. 555, 555 (1997) ("[B]oth sides stubbornly believe that their own religion and history has given them the right to the land"); Jarred A. Fishman, Are International Institutions Doing Their Job? Middle East Peace Process, 90 Am.

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staat, beginning the Zionist movement and planting the idea of an independent Jewish state. Herzl intended that the Jews build their new homeland in what is today known as the nation of Israel.

During World War I, Great Britain declared themselves proponents of a Jewish homeland in Palestine, as long as the new state did not impede the rights of the non-Jews who were already living in the region. This declaration was solidified in the Mandate for Palestine (“Palestinian Mandate”). When the League of Nations at the end of World War I assigned Palestine to Great Britain, the pledge of the Jewish homeland was incorpo-
rated into the Palestinian Mandate.\textsuperscript{12} Subsequent to the atrocities of World War II, the Jewish people demanded that the United Nations\textsuperscript{13} grant them a homeland.\textsuperscript{14} The State of Israel was eventually formed in 1948, even though Palestinians and Jews battled each other for the land.\textsuperscript{15} From 1948 until 1993, there was unrest between the Jews of Israel and the Palestinians, who believed the land should be theirs.\textsuperscript{16} These differing beliefs and goals led to fifty years of conflict and several wars.\textsuperscript{17}

Beginning in 1978, Israel and the Arab Nations\textsuperscript{18} slowly began to open lines of communication.\textsuperscript{19} Since 1993 Israel has signed agreements, such as Oslo I and Oslo II (collectively “Oslo Accords”), to get toward the goal of peace.\textsuperscript{20} As set forth in these agreements, final settlement negotiations were supposed to be completed by May 4, 1999.\textsuperscript{21} This deadline has passed without a final agreement between the parties.\textsuperscript{22}

This Comment addresses the Middle East peace process, focusing upon the relationship between Israel and Palestine. Part I discusses the background of the land that today comprises the State of Israel and its territories. This Part summarizes the vari-
ous accords and peace treaties signed by Israel, the Palestinians, and the other surrounding Arab Nations. Part II reviews commentary regarding peace in the Middle East by those who believe Israel needs to surrender more land and by those who feel that Palestine already has received too much. Part II examines the conflict over the permanent status negotiations, such as the status of the territories. Part III argues that all the parties need to abide by the conditions and goals set forth in the Oslo Accords before they can realistically begin the permanent status negotiations. Finally, this Comment concludes that in order to achieve peace, both sides will need to compromise, with Israel allowing an independent Palestinian State and Palestine amending its charter and ending the call for the destruction of Israel, though the circumstances do not bode well for peace in the Middle East.

I. FORMATION OF THE ISRAELI STATE, CONFLICT, AND THE PEACE ACCORDS

A. History and Formation of the Israeli State

In 1937, Great Britain, then the occupiers of Palestine, recommended partitioning Palestine into an Arab state, which would be incorporated into Transjordan, and a Jewish state. Nothing was implemented from the 1937 plan, and in August 1947 the U.N. established a committee that recommended a partition plan to divide Palestine into three territories: an Arab State, a Jewish State, and a third area that would be under international control. The fighting, however, continued between the Israelis and the Palestinians through the partition plan and even after the armistice in 1949.

23. See Webster's New Collegiate Dictionary 1444 (1st ed. 1973) (explaining that country is currently known as Jordan, or Hashemite Kingdom of Jordan).


25. See id. at 38 (stating that United Nations proclaimed that third area would be an "internationally administered enclave around Jerusalem"); see also Collins & Lapierre, supra note 2, at 17 ("Most important, the United Nations plan refused to both states sovereignty over the city of Jerusalem, the pole to which, since antiquity, the political, economic and religious life of Palestine had gravitated.").

26. See Collins & Lapierre, supra note 2, at 48 (stating that "[n]either the Arabs
1. Pre-Statehood Developments

Great Britain's desire around 1937 was to keep Palestine a single state. Nonetheless, it supported a partition of Palestine due to the deteriorating relations between the Jews and the Arabs. Palestinian Arabs rejected the plan, and in 1947, Great Britain relinquished its control over the fate of the land to the United Nations. Israel declared an independent state in May 1948 in accordance with the U.N. partition.

2. Original Partition Plans for Palestine and Israel

Under the plan dividing Palestine into three territories, fifty-seven percent of the land would be given to the Jews to form an independent state, despite the fact that Palestinian Arabs represented two-thirds of the population. After much hesitation, the Zionists, representatives of the Jewish people fighting for an independent state of Israel, agreed to this division of land, yet the Palestinian Arabs refused to agree to it. On May 14, 1948, the Zionists declared an independent state of Israel on the land allocated to the Jews in the U.N. Partition Plan.
A civil war between the Arabs and the Jews ensued and by the time armistice talks began, the Jews had conquered most of Palestine.\textsuperscript{35} Palestinian Arabs enlisted the help of Egypt, Iraq, Jordan, and Syria in trying to block the partition plan and make Palestine an independent Arab State.\textsuperscript{37} The 1948 war followed, ending with the Jews defeating the Arab Nations and taking all of British occupied Palestine except the West Bank, which Jordan retained, and the Gaza Strip, which Syria retained.\textsuperscript{38}

3. Post 1948 Conflicts Between Israel and the Surrounding Nations

In 1967, the Arab Nations\textsuperscript{39} completely surrounded Israel, and desired to take back the land they felt should never have left their possession.\textsuperscript{40} In the war that followed, commonly termed the Six-Day War, Egypt mobilized its armed forces from the south, Iraq, Jordan, Saudi Arabia, and Syria invaded Israel from all other angles.\textsuperscript{41} There were 3000 U.N. soldiers in the Sinai region\textsuperscript{42} where Egypt mobilized its army.\textsuperscript{43} These U.N. forces withdrew after demands by Egypt that they do so.\textsuperscript{44} One commentator states that the leaders of each of the Arab Nations spoke of the demolition of Israel and the Israeli people, believing that only one of the two peoples could exist.\textsuperscript{45} Israel decided

\textsuperscript{36} See Harpèr, supra note 30, at 24 (stating that by time armistice agreements were concluded in 1949, Israel encompassed almost 80\% of territory that was British-occupied Palestine).

\textsuperscript{37} See Rubin, supra note 34, at 4 (explaining that Lebanon and Saudi Arabia also lent help, but that each nation sought to obtain Palestine for itself).

\textsuperscript{38} See id. (stating that between 630,000 and 730,000 Palestines left Palestine and 450 Palestinian Arab villages had disappeared).

\textsuperscript{39} See id., at 13 (listing Egypt, Jordan, and Syria, as nations whose armies Israel defeated).

\textsuperscript{40} See Shoham, supra note 16, at 247 (stating that certain Arab Nations wanted to eliminate Israel and thus "rectif[y] what in their eyes was nothing more than a temporary historical footnote").

\textsuperscript{41} See The World Almanac and Book of Facts 492 (1997) (showing that Syria's border is comprised of northern borders of both Jordan and Iraq). The western border of Syria is adjacent to Israel. Id. The southern most part of Israel is in proximity to Saudi Arabia, with Jordan between the two. Id.

\textsuperscript{42} See Webster's New Collegiate Dictionary 1478 (1st ed. 1973) (stating that Sinai is peninsula between Red Sea and Mediterranean).

\textsuperscript{43} Shoham, supra note 16, at 247.

\textsuperscript{44} Id.

\textsuperscript{45} See id. at 247-48 (explaining that President Gamal Abdel Naser of Egypt, President Aref of Iraq, and Chairman of Palestinian Liberation Organization ("PLO") Ahmed Shukairy, all proclaimed that they wanted to destroy Israel).
to launch a preemptive air strike that destroyed most of the Egyptian army's planes while they were still on the ground. The war lasted only six days, but by the end Israel wrested the Sinai Peninsula and the Gaza Strip from Egyptian control. In addition Israel seized control of the West Bank from Jordan and the Golan Heights from Syria. The acquired territory comprised the other twenty percent of what was British-occupied Palestine prior to the 1947 partition plan. After the Six-Day War, Israel offered to return all of the newly acquired land, aside from the newly unified Jerusalem, in return for full peace with its neighbors. The Arab Nations rejected this plan, and refused to recognize Israel as a state with whom they would negotiate.

On Yom Kippur, the Jewish Day of Atonement, Egypt and Syria surprised Israel by attacking on the holiest Jewish day. The war lasted for three-weeks, and at the end, Israel pushed the Arab Nations back to the pre-war lines. U.S. and Soviet negotiation led to a cease-fire in order to end the war. Commentators state that the goal of the failed attempt was to restore the territory lost by Egypt and Syria in 1967.

46. See id. at 248 (noting that Israel perceived threat to national security and therefore launched air strike).
47. See Rubin, supra note 34, at 13 (stating that Gaza Strip was part of pre-1948 Palestine, but Sinai was not); see also The World Almanac and Book of Facts 492 (1997) (stating that Gaza Strip is area on Mediterranean Sea that borders Sinai Peninsula).
48. See Rubin, supra note 34, at 13 (explaining that Golan Heights were not part of pre-1948 Palestine); see also The World Almanac and Book of Facts 492 (1997) (stating that West Bank comprises large area in center of Israel bordering Dead Sea and Jordan).
49. See Rubin, supra note 34, at 13 (stating that “resulting humiliation and hopelessness inflamed the Arabs’ worst fears that Israel would take over the region.”).
51. See Shoham, supra note 16, at 249 (explaining that Arab nations did not want peace with Israel, preferring instead to claim all of former British mandate).
52. See Rubin, supra note 34, at 13 (stating that Arabs held summit in 1967 and together decided against dealing peacefully with Israel).
53. See id. at 45 (describing attack’s effect on Israel).
54. See id. (noting, however, that many Arabs felt regained honor they had lost in Six-Day War).
55. See Harper, supra note 30, at 31 (noting that U.S. nuclear forces were on worldwide alert in case of Soviet intervention).
56. See id. (finding that war was not primarily about Palestinian problem).
B. The Camp David Agreements

The Camp David Agreements forced Israel and Egypt to recognize the 1967 U.N. Resolution 242. This resolution recognized the need for members of the Middle East to respect and acknowledge the political independence and sovereignty of the states in the region and their right to live in peace. The Camp David Agreements also recognized United Nations Security Council Resolution 338 ("Resolution 338"). Resolution 338 summoned Egypt, Israel, Jordan, and the representatives of the Palestinian people to negotiate on the settlement of the Palestinian situation. By negotiating with Egypt and agreeing to recognize these two resolutions, Israel recognized that the Palestinian people had rights.

1. Resolution 242

Resolution 242 required the withdrawal of the Israeli armed forces from the territories they acquired during the Six-Day War. The U.N. Security Council adopted Resolution 242 shortly after the Six-Day War. The United Nations stated that the refugee problem needed to be addressed and that demilitarized zones had to be created.

Following Resolution 242, the U.N. General Assembly recognized the Palestinians' status as a people, their core role in achieving a just resolution of the Palestinian's situation, and

57. See Shoham, supra note 16, at 249; Resolution 242, U.N. Security Council Official Records, 22nd Year Supp. (1967) [hereinafter Resolution 242] (representing "the establishment of a just and lasting peace in the Middle East which should include ... [w]ithdrawal of Israeli armed forces from territories occupied in the recent conflict.").

58. See id. (recognizing "every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.").


60. See Camp David Agreements, supra note 19, at 1467 (trying to reach peace through treaties "based on Security Council Resolutions 242 and 338 in all their parts").

61. See id. (using three stages to achieve goal of peace).

62. Id.

63. See Resolution 242, supra note 57, at 8 (requiring "[t]ermination of all claims or states of belligerency").

64. See id. at 9 (adopting resolution of November 22, 1967).

65. See id. (requesting U.N. Secretary General to designate "Special Representative" to go to Middle East to help achieve peaceful settlement in accordance with Resolution 242.)
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their right to self-determination.\(^6\) No real changes occurred in the Middle East, however, until the 1978 Camp David Agreements.\(^6\) At Camp David, Egyptian President Anwar Sadat and Israeli Prime Minister Menachem Begin agreed to a framework of peace in the Middle East that offered some Palestinian autonomy in occupied territories, as well as setting the stage for an agreement between Israel and Egypt.\(^6\) The Camp David Agreements created a framework for peace that could be used for the entire Middle East.\(^6\)

2. Resolution 338

Resolution 338, passed during the Yom Kippur War,\(^7\) had the following requirements: that the fighting cease, Resolution 242 be implemented, and that the Israelis and the Arabs commence negotiations.\(^7\) The negotiations regarding the West Bank and Gaza Strip were supposed to proceed in three stages and were very similar to the three stages later implemented in the Oslo Accords.\(^8\) All parties comprehended the symbolic na-

6. See id. at 8 (stating there was necessity "[f]or achieving a just settlement of the refugee problem"); Dajani, supra note 24, at 41; see also WEBSTER'S NEW COLLEGIATE DICTIONARY 1041 (1st ed. 1973) (defining self-determination as "determination by the people of a territorial unit of their own future political status.").


68. See Middle East Peace Process, supra note 67, at 12 (noting that agreement offers limited autonomy to Palestinians in occupied territories, setting stage for Israeli-Egyptian peace treaty).

69. See Camp David Agreements, supra note 19, at 1466 (stating that "[t]he agreed basis for a peaceful settlement of the conflict between Israel and its neighbors is United Nations Security Resolution 242, in all its parts.").

70. See Rubin, supra note 34, at 45 (explaining that Yom Kippur War occurred in 1973-74, when Egypt and Syria attacked Israel on Jewish Holy Day of Atonement, catching Israelis by surprise).

71. See Resolution 338, supra note 59, at 10 (calling for cease-fire within 12 hours of Resolution being adopted and for immediate negotiations between parties).

72. See Camp David Agreements, supra note 19 (breaking down peace process into three stages: first, transitional arrangements for West Bank and Gaza Strip for period of no more than five years; second, Egypt, Israel, and Jordan agreeing on how to establish elected self-government authority in West Bank and Gaza Strip; and third, negotiations to decide final status of West Bank and Gaza Strip, including peace treaty between Israel and Jordan). Cf. Oslo I, supra note 20 (breaking up process into immediate actions, interim period where power and control over occupied territories switches hands,
ture of the negotiations and Egypt and Israel realized that they were witnessing a historic moment.\footnote{Camp David Agreements, supra note 19, at 1463 (describing President Sadat's visit to Jerusalem and warm welcome he received as "historic initiative . . . [that] created an unprecedented opportunity for peace . . . .")} The Israelis viewed making peace with Egypt as a stepping stone to peace in the Middle East.\footnote{See Ian S. Lustick, Ending Protracted Conflicts: The Oslo Process Between Political Partnership and Legality, 30 CORNELL INT'L L.J. 741, 744 (1997) (emphasizing that Israeli and Egyptian leaders referred to each other as "partners"). Prime Minister Rabin said, "[J]ust as we made peace with our greatest enemy in war, with Egypt, so will we make peace with others who were our enemies and who will be our partners in building peace in the Middle East." Id.} From an Egyptian standpoint, many of the dreams that were set out in these accords have become a reality.\footnote{Regional and Global Impacts of the Arab-Israeli Peace Process, 89 Am. Soc'y INT'L Proc. 363, 363 (1995) (quoting Ambassador Nabil Eleraby, Mission of Egypt to the U.N., during panel at Syracuse University April 7, 1995, who argued that Israeli occupation of land acquired in 1967 should come to end).}

Despite numerous obstacles, this co-existence has remained essentially peaceful for twenty years.\footnote{See id. at 379 n.4. (including obstacles, such as lack of other Arab Nations' support).} Initially, problems existed for both Israel and Egypt with other Arab Nations.\footnote{See Middle East Peace Process, supra note 67, at 11 (including Arab boycott of Egypt and 1981 assassination of President Sadat).} For instance, the Palestinians refused to participate in the Camp David process.\footnote{See Weiner, supra note 2, at 6 (pointing out that there was no need to debate who were deemed Palestinians due to boycott).} In March 1979, certain Arab Nations boycotted Egypt as a result of the Israeli/Egyptian bilateral peace treaty\footnote{Treaty of Peace between Egypt and Israel, Mar. 26 1979, 18 I.L.M. 362 (1979) [hereinafter Egypt Peace Agreement].} signed in Washington.\footnote{Id.} In accordance with the treaty, Israel returned Sinai to Egypt, but remained in control of the Gaza Strip and the West Bank.\footnote{Id.}

Eventually, these other Arab Nations also moved towards peace.\footnote{See, e.g., Israel-Jordan: Treaty of Peace, Oct. 26, 1994, 34 I.L.M. 43 (1995) [hereinafter Jordan Peace Treaty] (establishing peace between Jordan and Israel recognizing each other's sovereignty).} In 1986, Jordan's King Hussein severed links with the Palestinian Liberation Organization\footnote{See Rubin, supra note 34, at 70 (explaining King Hussein and PLO's troubled}
Yasser Arafat refused to accept U.N. resolutions regarding the peace talks. This stance in alliance with the United Nations occurred eight years before Jordan and Israel met in Washington to declare an end to their state of conflict. Tensions heightened during 1987-93 when the PLO spurred uprisings among Palestinians through an Intifada. Confronted with the option of treating the Intifada as a war or attempting to pursue peace, Israel chose the latter.

C. The Oslo Accords

The Israelis and the PLO chose to pursue peace with the breakthrough occurring in Oslo. Oslo I codified the Oslo negotiations. Oslo II's purpose was to create a momentum that would push Israel and the Palestinian Authority toward reaching a final settlement as well as to create a learning period in which trust and confidence could grow. Oslo I sets out the basis for

past, including 1970 when King Hussein of Jordan imprisoned and expelled PLO officers and gunmen and banned PLO propaganda; in 1986 Jordan again closed its doors to PLO with King Hussein noting that PLO did not keep their word and attempt to make peace in Middle East; see also Dajani, supra note 24, at 27 (stating PLO emerged as international representatives of Palestinian people in 1960s).

84. See Rubin, supra note 34, at 77 (explaining that in November 1985, Arafat promised to confine future terrorist attacks solely to Israel and occupied territories, and that PLO Central Council met simultaneously and refused to recognize Resolutions 242 and 338).

85. See Jordan Peace Treaty, supra note 82 (having Israel withdraw from land held in Jordan on January 30, 1995).

86. Lustick, supra note 74, at 743. See Rubin, supra note 34, at 85 (explaining that Intifada, which literally means revolt, was incapable of creating independent Palestinian state). The Intifada brought the Palestinian issue international attention and sympathy. Rubin, supra, at 86.

87. See Lustick, supra note 74, at 743 (stating that military option was deemed too unilateral, so Israel felt peace was better answer).


89. See Dajani, supra note 24, at 60 (noting that this process led Israel and PLO to recognize each other's sovereign right to exist, and impelled drafting of Oslo I). Oslo I created the framework for negotiations regarding the final status of occupied territories and established that the Palestinian self-governing authority should lead during the interim period. Id.

90. Oslo I, supra note 20.

91. See Justus R. Weiner, The Hebron Protocol: The End of the Beginning or the Beginning of the End of the Israeli-Palestinian Peace Process?, 15 B.U. Int'l L.J. 373, 416 (1997) ("With the DOP breakthrough in 1993, hopes blossomed that an era of trust could, within the modest period of less than six years, write a new page of history and result in an enduring permanent status agreement resolving all dimensions of this conflict.")
Oslo II. The parties wanted to move Israel and Palestine toward permanent status negotiations through Oslo II. Oslo II specifies that the permanent status negotiations are to commence as soon as possible, but no later than May 4, 1999.

1. Declaration of Principles ("Oslo I")

Secret meetings between the Israeli government and the PLO occurred over the course of 1993 in Oslo. Up until the Oslo negotiations, both the Israelis and the United States refused to recognize the Palestinians' right to participate in the Middle East peace process. They also refused to recognize the PLO as the representative of the Palestinians. Making this recognition was a crucial first step toward peace. Scholars note that the scope of the rights recognized by Israel, however, is difficult to assess.

When Oslo I was signed, PLO leader Yasser Arafat shook the hand of Prime Minister Rabin on the White House Lawn. The leaders agreed to a three stage plan toward peace. The first

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92. Oslo I, supra note 20.
93. See Weiner, supra note 2, at 4 (formulating Oslo II as final interim agreement superceding all other previous agreements).
94. See Oslo II, supra note 20, at 558 (stating that one aim of Oslo II is election of Council for five year interim period beginning May 4, 1994 and "leading to a permanent settlement based on Security Council Resolutions 242 and 338").
95. See id. (stating that permanent status negotiations would start no later than May 4, 1999).
96. See Dajani, supra note 24, at 60 (noting that there were at least 14 rounds of negotiations). Johann Jorgen Holst, former foreign minister of Norway, mediated these talks. Id.
97. See id. at 41-42 (arguing that United States and Israel still refrain from acknowledging Palestinians' claimed right to self-determination).
98. See Rubin, supra note 34, at 89 (stating that PLO is known terrorist organization that has claimed credit for taking lives of many Israelis). Syria arrested several thousand of Arafat's supporters in Syria and killed many others in Lebanon. Id.
99. See Jordaan, supra note 4, at 555 (recognizing Israel's desire to participate in peace negotiations).
100. See Dajani, supra note 24, at 44 (pointing to failure of Israel and PLO's agreement to mention self-determination of Palestinians).
101. See Dallal, supra note 88, at 45 (noting that handshake was historic and that only days before, letters were exchanged between leaders allowing for Oslo I). To many, the handshake was to "mark the end of a violent history and the beginning of an era committing Palestinians and Israelis to share a country each claims as exclusively its own." Id.
102. See Oslo I, supra note 20, at 1529 (stating that there will be an interim agreement and permanent status negotiations, as well as Oslo I).
phase involved the withdrawal of Israeli forces from the Gaza Strip and Jericho.\textsuperscript{103} The second stage implemented an Interim Agreement ("Oslo II")\textsuperscript{104} that redeployed Israeli forces in the West Bank and transferred certain agreed powers.\textsuperscript{105} The final phase envisioned the creation of a Permanent Status Agreement finalized by the end of the Interim Period, May 4, 1999.\textsuperscript{106} Many commentators believe that what made the agreement at Oslo possible was the adoption of a gradual approach whereby issues were sorted into those requiring immediate attention and those warranting postponement until the final status negotiations.\textsuperscript{107} Yet, the parties have neither agreed upon the present status of Palestinians, nor the status that the Palestinians will have after the final status negotiations—leaving the debate for later negotiations.\textsuperscript{108}

Oslo I specifies that the aim of the negotiation is to create an interim Palestinian Authority ("PA").\textsuperscript{109} The PA is elected to serve for a transitional period that should lead to permanent settlement resolutions based on Resolutions 242 and 338.\textsuperscript{110} Oslo I

\begin{itemize}
  \item 103. \textit{See id.} (noting that "[u]pon the entry into force of this Declaration of Principles and the withdrawal from the Gaza Strip and Jericho area, a transfer of authority from the Israeli military government . . . to authorised Palestinians . . . will commence.").
  \item 104. Oslo II, supra note 20.
  \item 105. \textit{See Oslo I, supra note 20, at 1530} (stating that "[t]he Interim Agreement shall specify, among other things, the structure of the Council, the number of its members, and the transfer of powers and responsibilities from the Israeli military government and its Civil Administration to the Council.").
  \item 106. \textit{Id.; see also Shoham, supra note 16, at 269} (summarizing agreement and noting that first two stages of implementation proceeded smoothly).
  \item 107. \textit{See Inafuku, supra note 75, at 364} (noting that important features of Oslo I "are conceived in this two-phase plan").
  \item 108. \textit{See Dajani, supra note 24, at 28} (noting that when Prime Minister Netanyahu took office, he declared that he was opposed to formation of independent Palestinian State).
  \item 109. \textit{See Oslo I, supra note 20, at 1525} (stating that aim was "[t]o establish a 5-year Palestinian Interim Self-Government Authority."); \textit{see also Dajani, supra, note 24, at 72} (observing that there are many differences between PLO and Palestinian Authority ("PA")). The PA has municipal authority over affairs of Palestinians in Occupied Territories. Dajani, supra. The PLO has broader decisions regarding Palestinian people living outside Occupied Territories and ultimate status of Palestine, but they do not have legal authority over decisions of PA that relate to local governance of Palestinians in Occupied Territories. \textit{Id.} The PA and PLO, however, are intrinsically intertwined. \textit{Id.}
  \item 108. The PLO negotiated for the creation of PA and Arafat is the leader of both. \textit{Id.}
  \item 110. \textit{See Oslo I, supra note 20, at 1527} (stating aim of negotiations is to establish elected Palestinian Council "for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council Resolution 242 and 338.").
\end{itemize}
also specifies the need for a general election in Palestine under
democratic principles and agreed upon supervision.\textsuperscript{111} Once
elected, the PA will preside over designated areas in the West
Bank and the Gaza Strip.\textsuperscript{112} Israel and Palestine specifically ta-
bled difficult issues until the permanent status negotiations, in-
cluding the status of Jerusalem, refugees, settlements, security ar-
rangement, and borders.\textsuperscript{113}

During this interim period, Oslo I dictated that Israel is to
transfer power to the PA.\textsuperscript{114} Oslo I provided for immediate Pal-
estinian authority over education, health, social welfare, direct
taxation, and tourism in the West Bank and Gaza Strip.\textsuperscript{115} Oslo I
set out the framework for Oslo II, discussed the composition of
the PA, and dictated that once the PA is elected, Israel will with-
draw its military presence from the occupied areas.\textsuperscript{116} Israel was
to redeploy the military forces outside of the populated areas.\textsuperscript{117}
The redeployment was to occur gradually and there was a special
schedule for the withdrawal from the Gaza Strip and Jericho ar-
areas.\textsuperscript{118} After its withdrawal, Israel would remain responsible for
the external security of those territories as well as the internal
security of the Israelis living in those areas.\textsuperscript{119} Additionally, Oslo I states that the roads are to remain open for both Israeli and

\textsuperscript{111} See id. at 1528 (noting that "[i]n order that the Palestinian people in the West
Bank and Gaza Strip may govern themselves according to democratic principles, direct
free and general political elections will be held for the Council under . . . international
observation").

\textsuperscript{112} See id. (stating that "[j]urisdiction will cover the West Bank and Gaza Strip
territory, except for issues that will be negotiated in the permanent status negotia-
tion").

\textsuperscript{113} See id. at 1529 (explaining that "[i]t is understood that these [permanent sta-
tus] negotiations shall cover remaining issues, including Jerusalem, refugees, settle-
ments, security arrangements, borders. . . .").

\textsuperscript{114} See id. (stating that authorized land will be transferred only after inauguration
of PA).

\textsuperscript{115} See id. (providing for Palestinian control immediately after Oslo I enters into
force and Israel withdraws from Gaza Strip and Jericho).

\textsuperscript{116} See id. at 1532-33 (explaining that "[a]fter the entry into force of this Declara-
tion of Principles, and not later than the eve of elections for the Council, a redeploy-
ment of Israeli military forces in the West Bank and the Gaza Strip will take place. . . .").

\textsuperscript{117} Id. at 1533.

\textsuperscript{118} See id. (noting that Palestinian Police will assume responsibility for "public
order and internal security").

\textsuperscript{119} See id. at 1544 (stating that "subsequent to the Israeli withdrawal, Israel will
continue to be responsible for external security, and for internal security and public
order of settlements and Israelis.").
Palestinian use.\textsuperscript{120}

To ensure a smooth transition, the parties established a Joint Israeli-Palestinian Liaison Committee\textsuperscript{121} to deal with disputes and issues that require coordination.\textsuperscript{122} Oslo I called for future negotiation on outstanding issues after an interim period during which the PA would have certain power and autonomy over the West Bank and Gaza Strip.\textsuperscript{123} Oslo I established a framework for negotiations to reach a final status agreement.\textsuperscript{124} Accordingly, many agreements have been subsequently signed in the Middle East.\textsuperscript{125}

2. Interim Agreement ("Oslo II")

Article I of Oslo II sets out the basic terms for the transfer of authority from Israel to the Palestinians as well as defining the powers that Israel retains under this agreement.\textsuperscript{126} The West Bank is the first area where the Israeli military government will turn over power to the PA.\textsuperscript{127} Pursuant to the Oslo Accords, state status is an issue to be taken up in the permanent status negotiations.\textsuperscript{128}

a. Transfer of Authority

The transfer of authority from Israel to Palestinians is enumerated in Article I of Oslo II.\textsuperscript{129} Oslo II expands Oslo I and enumerates how elections will occur,\textsuperscript{130} who is allowed to vote,\textsuperscript{131}

\begin{itemize}
  \item \textsuperscript{120} See id. (stating that roads within Gaza Strip and Jericho are included).
  \item \textsuperscript{121} See id. (noting that committee will be equally represented by each side).
  \item \textsuperscript{122} See id. at 1531-32, 1544 (noting that parties can add technicians and experts if necessary).
  \item \textsuperscript{123} See Quigley, supra note 50, at 285 (finding that agreement has "the prospect of bringing resolution to the long-standing territorial dispute over Palestine").
  \item \textsuperscript{124} But see id. (offering that agreements provide Palestinians less than they are entitled and, therefore, that the agreements unfairly favor Israel).
  \item \textsuperscript{125} See Middle East Peace Process, supra note 67 (listing accomplishments in post-Camp David agreements).
  \item \textsuperscript{126} See Oslo II, supra note 20, at 558-59 (noting that powers will be transferred to Council or to PA until such time that Council is elected); but see Jordaan, supra note 4, at 593 (noting that Oslo II has vague and very generalized language).
  \item \textsuperscript{127} Id. art. XI, at 561.
  \item \textsuperscript{128} See Oslo I, supra note 20, at 1528 (leaving issue to be debated).
  \item \textsuperscript{129} See Oslo II, supra note 20, at 558-59 (noting that transfers will occur gradually).
  \item \textsuperscript{130} Id. art. II at 559 (stating that PA members will serve throughout Interim period); see also, Dajani, supra note 24, at 62 (noting PA/Council members' terms will end at conclusion of Interim Period).
\end{itemize}
and the structure of the Palestinian National Council ("Council")—or until the point that it is established, the structure of the Palestinian Authority.\textsuperscript{132} The Council will have legislative and executive power in accordance with Oslo I, but cannot adopt any laws inconsistent with Oslo II.\textsuperscript{133} Oslo II also dictates that an independent judicial system composed of independent Palestinian courts and tribunals will be convened.\textsuperscript{134}

b. The West Bank and Gaza Strip

The redeployment of Israeli military forces is set out in phases, with the first phase commencing in the populated areas of the West Bank.\textsuperscript{135} The West Bank is split into three areas.\textsuperscript{136} Area A includes the larger cities of Bethlehem, Hebron, Jenin, Jericho, Kalkilya, Nablus, Ramallah, and Tulkarm.\textsuperscript{137} Area B consists of smaller towns and villages where the PA has control over civilian life, but Israel is in control of internal security.\textsuperscript{138} The Israeli-controlled remainder of the West Bank, including rural areas, military zones, and Israeli settlements, is designated as Area C.\textsuperscript{139} The land located in Areas A and B come under the Council’s jurisdiction in the first phase.\textsuperscript{140} Under Oslo II, Israel must transfer only authority over the people in Area C during the first phase, and not transfer authority over the land in that area.\textsuperscript{141} The Council must assume responsibility for both the in-

\textsuperscript{131} See Oslo II, \textit{supra} note 20, art. II, at 559 (including Palestinian individuals in West Bank, Gaza Strip, and Jerusalem).

\textsuperscript{132} See id. art. III at 559 (calling for immediate election of speaker). The Council, once it is inaugurated, will replace the PA and assume all of the responsibilities of the PA under various Agreements. \textit{Id.} art. XXXI, at 567.

\textsuperscript{133} See id. art. III, at 559 (stating that “[i]mmediately upon its inauguration, the Council will elect from among its members a Speaker.”).

\textsuperscript{134} See id. art. IX, at 561 (“[t]he Palestinian Council may adopt all necessary measures in order to enforce the law and any of its decisions, and bring proceedings before the Palestinian courts and tribunals.”).

\textsuperscript{135} See id. art. XI, at 561 (including “cities, towns, villages, refugee camps and hamlets”).


\textsuperscript{137} Molkner, \textit{supra} note 136.

\textsuperscript{138} \textit{Id.}

\textsuperscript{139} \textit{Id.}

\textsuperscript{140} \textit{Id.}

\textsuperscript{141} Oslo II, \textit{supra} note 20, art. XI, at 562.
ternal security and public order in Area A. In Area B Israeli military forces will be completely redeployed, which means that the Palestinian Police will have control over public order, but Israel will retain responsibility for protecting Jews in the area and confronting terrorism.

There are several Jewish Holy Sites in Area A and the Palestinian Police are in charge of protecting these sites and the people who visit them. A Joint Mobile Unit ("JMU") will consist of vehicles from both the Israelis and Palestinians. The JMU's job is to respond to emergency situations and will be situated in the area surrounding the holy sites and on access routes to these sites. Oslo II permits Israeli plain clothed guards within the sites to monitor them as well. Also, while the PA will govern in the city of Bethlehem, special security arrangements will be made regarding Rachel's Tomb, another Jewish holy site.

The redeployment will be effectuated in various stages. Oslo II sets the deadline for withdrawal from the West Bank to be completed at least twenty-two days before the eve of the Council's elections. Security arrangements, such as the Israeli military redeployment, are neither to disturb the Palestinian development projects in the West Bank, nor are they to prejudice the moral or physical dignity of those Palestinians residing in the

142. Id. art XIII, at 562.
143. See id. art. XIII-XIV, at 562-63 ("The Council shall establish a strong police force.").
144. Id. art XIII, at 562.
145. Id. at 574, 629 (including Elazer's Tomb and Joshua's Tomb, Samaria, Jewish Cemetery in Sammerat, and Synagogue in Gaza City).
146. Id. at 574.
147. See id. at 572 (explaining that Joint Patrol will have one four-wheel drive vehicle from each party and whichever party is supposed to be in control of specific road will lead other vehicle).
148. See id. (stating that Joint Mobile Unit ("JMU") "is to provide rapid response in the event of incidents and emergency situations, in order to ensure free, unimpeded and secure movement along their designated routes of activity, or in their areas of activity.").
149. Id. at 574, 619.
150. See id. (explaining that extra measure will be taken because of religious nature of these sites).
151. See id. at 576 ("While the Tomb, as well as the main road leading from Jerusalem to the Tomb . . . will be under the security responsibility of Israel, the free movement of Palestinians on the main road will continue.").
152. Id. at 569.
153. See id. (noting that this is first stage).
West Bank.\textsuperscript{154} In the ten day transition period set to occur prior to each redeployment, the Israeli military will brief the Palestinian Police commanders about the respective area and any specific problems that the Israeli Military has encountered in the area.\textsuperscript{155} Further redeployments of Israeli military forces are to take place, according to Oslo I, in three stages.\textsuperscript{156} During the period of redeployment, Israel and the Palestinians will negotiate the specific areas to which the Israeli military will be redeployed.\textsuperscript{157}

Israel is still responsible for defense against external threats.\textsuperscript{158} Oslo II does provide, however, that the Palestinians can have a police force of up to 30,000 people.\textsuperscript{159} The Palestinian Police are the only Palestinian security authority, and no weapons other than those of the Palestinian Police and the Israeli military are allowed into the occupied territories.\textsuperscript{160} The Council can issue gun permits, however, to private citizens, but any illegal arms will be confiscated by the Israeli Military.\textsuperscript{161} If individuals are suspected of perpetrating acts of violence, then the Palestinian Police should arrest and prosecute them.\textsuperscript{162}

According to Oslo II, both sides are to work together in order to keep the peace.\textsuperscript{163} Regular as well as special meetings will occur between the commander of the Israeli military forces and the Palestinian Police in the West Bank and Gaza Strip.\textsuperscript{164} In

\begin{itemize}
  \item 154. \textit{See id.} ("In order to maintain the territorial integrity of the West Bank and the Gaza Strip as a single territorial unit . . . both sides shall implement the provisions of this Annex, while respecting . . . normal and smooth movement of people, vehicles, and goods within the West Bank, and between the West Bank and the Gaza Strip.").
  \item 155. \textit{Id.}
  \item 156. \textit{See id.} (detailing stages are each to be six months apart, completion to be not more than 18 months after inauguration of Council).
  \item 157. \textit{See id.} (noting that this will be part of permanent status negotiations as well).
  \item 158. \textit{See id.} at 562 (including Egyptian and Jordanian borders)
  \item 159. \textit{See id.} at 573 (stating that of these police officers, up to 12,000 may be deployed in West Bank and up to 18,000 in Gaza Strip). These police forces will be deployed in phases similar to Israeli deployment of their military. \textit{Id.} The total number of Palestinian recruits from abroad cannot exceed 5000 in West Bank and 7000 in Gaza Strip, but these recruits can bring their children and spouses. \textit{Id.}
  \item 160. \textit{See id.} at 563, 569, 573 (including enumeration of weapons that police are allowed to have—i.e., up to 4000 rifles and up to 120 machine guns of 0.3" or 0.5" caliber).
  \item 161. \textit{Id.} at 569.
  \item 162. \textit{See id.} at 569 ("The Palestinian Police will act systematically against all expressions of violence and terror.").
  \item 163. \textit{Id.} at 570.
  \item 164. \textit{See id.} (occurring as appropriate).
\end{itemize}
order to help facilitate this coordination, each side must operate a twenty-four hour regional security coordination office with direct and constant communication between both sides.\footnote{165. See id. (having up to six officers from each side: one commander and five duty officers).}

Terrorism is another area where the two parties agreed to cooperate.\footnote{166. See id. at 571 ("Each side shall immediately and effectively respond to the occurrence or anticipated occurrence of an act of terrorism, violence or incitement and shall take all necessary measures to prevent such an occurrence.").} The parties agreed to exchange information and to coordinate policies and activities.\footnote{167. Id.} Whether it be Israeli or Palestinian terrorists, both sides agreed to take all measures to end the violence.\footnote{168. See id. (agreeing to "actively prevent incitement to violence, including violence against the other side or persons under the authority of the other side").} In order to implement this goal, the parties agreed to apprehend, investigate, and prosecute persons suspected of terrorism.\footnote{169. See id.}

Oslo II also addressed some confidence building measures.\footnote{170. See id. at 563 ("attempting to establish a solid basis of mutual trust and good faith").} Israel agreed to turn over Palestinian detainees and prisoners in both the West Bank and Gaza Strip to the PA.\footnote{171. Id. at 571 ("Each side shall immediately and effectively respond to the occurrence or anticipated occurrence of an act of terrorism, violence or incitement and shall take all necessary measures to prevent such an occurrence.").} The released persons are free to return to their homes in the territories.\footnote{172. See id. (agreeing to "actively prevent incitement to violence, including violence against the other side or persons under the authority of the other side").} The two parties agreed to help each other with searching for missing persons and bodies of persons that have not been recovered.\footnote{173. See id. (agreeing to "actively prevent incitement to violence, including violence against the other side or persons under the authority of the other side").} Also, Palestinians from abroad who under Oslo II can enter the West Bank and the Gaza Strip will not be prosecuted for offenses committed before September 13, 1993.\footnote{174. See id. (agreeing to "actively prevent incitement to violence, including violence against the other side or persons under the authority of the other side").}

The Oslo Accords addressed the need for the Palestinian Charter to be amended.\footnote{175. See id. at 568 (stating Council "will convene and formally approve the necessary changes in regard to the Palestinian Covenant").} As per the chairman of the PLO’s letter to the Prime Minister of Israel, the PLO agreed that within two months of the inauguration of the Council, it would make changes in the Palestinian Covenant.\footnote{176. Id.} Also, they agreed to
abide by the standards of international law.\textsuperscript{177} Both sides agreed not to incite the other by any means, such as propaganda, and that each side’s education system will contribute to peace between the two parties.\textsuperscript{178}

c. Declaration of a Palestinian State

Under the Oslo Accords, Israel reserves conferring state status on the territories, instead making that part of the final negotiation process.\textsuperscript{179} Oslo II restates the idea that the Council will not have power in the international arena, although certain exceptions are carved out.\textsuperscript{180} Commentators note that the reason for not allowing the Council to engage in international processes is to prevent influencing Palestine’s status before the final settlement negotiations.\textsuperscript{181}

3. Post Oslo II Developments

In May 1994, an agreement regarding the West Bank and Jericho area was signed in Cairo.\textsuperscript{182} This agreement provided for the partial withdrawal of the Israeli administration and troops in the Gaza Strip and Jericho, and transferred most of the local control to the PA.\textsuperscript{183} Israel and the PLO also entered the Agreement on the Preparatory Powers and Responsibilities

\textsuperscript{177} See id. at 565 (agreeing to use “internationally-accepted norms and principles of human rights and rule of law.”)

\textsuperscript{178} See id. at 566 (undertaking to have mutual understanding and tolerance).

\textsuperscript{179} See Oslo I, supra note 20, at 1528 (finding state status to be difficult issue and, therefore, to be negotiated in final status negotiations); see also Jordaan, supra note 4, at 590 (emphasizing that result of territories lacking capacity to enter into relations with other states is found under Restatement (Third) of Foreign Law of United States); Shoham, supra note 16, at 272 (explaining that general status of territories remains same during Interim Period, even though partial authority is granted to Palestinians). Some commentators have argued that Oslo II demonstrates Israel’s unwillingness to diminish its control over Palestine. Jordaan, supra.

\textsuperscript{180} See Oslo II, supra note 20, at 561 (including specific economic agreements, agreements with donor countries in interest of regional development plans or aiding PA, as well as cultural, scientific, and educational agreements).

\textsuperscript{181} See Dajani, supra note 24, at 68 (finding that if PA were allowed to participate in international politics, then other countries might treat PA as independent state, thereby weakening Israel’s position in final settlement negotiations).

\textsuperscript{182} Agreement on the Gaza Strip and the Jericho Area, May 4, 1994, Isr.-P.L.O., 33 I.L.M. 622 (signed in Cairo, Egypt) [hereinafter Cairo Agreement].

\textsuperscript{183} Id.
("Erez Agreement"). This agreement allowed for the limited transfer of authority to Palestine to parts of the West Bank outside Jericho area. The Erez Agreement specifies that the PA will have no power over Jerusalem, settlements, military locations, or Israelis.

In October 1994, Israel and Jordan signed a peace treaty. In the peace treaty, Israel and Jordan recognize each other's territory, and, once the treaty became effective, agreed to keep to their own side of the international border. The two parties also agreed to deal with the refugee and displaced persons issue on a bilateral level. The Hebron Protocol was signed in May 1997, which intended to wrap up loose ends in Oslo II as well as to clear the table to begin the permanent status talks. The Hebron Protocol set up a Temporary International Presence in Hebron for a three month period in order to create a feeling of security for the Palestinians living in Hebron. Finally, the Wye River Memorandum was signed in order to help both parties continue to fulfill their obligations under previous treaties and to move the peace process forward. According to the Wye River Memorandum, both sides affirm their fight against terror-
This agreement restates that May 4, 1999 is the deadline for the completion of the permanent status negotiations and reiterates the goal of all of the accords: peace in the Middle East.

II. FACTORS AFFECTING COMPLIANCE WITH OSLO I AND OSLO II: COMPETING VIEWS

Scholars note that in order for the peace process to continue moving forward, the Oslo Accords must be deemed enforceable by the international community and recognized as internationally valid. Also, the Oslo Accords have been violated by both sides. It seems clear from both parties that until the violations of the Oslo Accords stop, especially with regard to terrorism, Israel and Palestine will not come close to peace. Intentionally, the parties left what they deemed the hardest issues for last.

A. Enforceability of the Oslo Accords

The Vienna Convention on the Law of Treaties ("Vienna Convention") proclaimed that treaties are enforceable only if Palestinian sides can more effectively carry out their reciprocal responsibilities, including those relating to further redeployments and security respectively.

195. See id. at 1252 ("Both sides recognize that it is in their vital interests to combat terrorism and fight violence . . .").

196. See id. at 1255 (noting that United States offered to facilitate permanent status negotiations).

197. Louis Rene Beres, Why the Oslo Accords Should be Abrogated By Israel, 12 Am. U. J. Int'l L. & Pol'y. 267 (1997); Quigley, supra note 50; See Jordaan, supra note 4, at 591 (noting if Oslo Accords are not believed to be enforceable, then either party could renege at any time and claim they were never under obligation).


200. See Oslo I, supra note 20, at 1528 (including status of territories, Jerusalem, and refugees and displaced persons).

they are codified between states. By the terms of the Oslo Accords, Israel did not confer state status on Palestine, leaving open the question of whether the Oslo Accords are binding. Some scholars state that since Palestinians fear they may have not entered into a binding agreement, they have heightened feelings of distrust, insecurity, and believe that they are at Israel's mercy, with minimal autonomy. Israel negotiated, however, with the PLO on behalf of all Palestinians in Oslo I and Oslo II, and not just with the Palestinians living in the occupied territories.

Aside from the issue of Palestine not being a state, the PLO is considered by many scholars to be a terrorist organization, and therefore these scholars believe that the PLO should not be permitted to negotiate with Israel. In order to ensure the de-

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202. Id.; see also Jordaan, supra note 4, at 590 (assuming, therefore, that under Vienna Convention, Oslo II is not fully enforceable by Palestine); see also Beres, supra note 197, at 271 (objecting that PLO, which is non-state, is held to same standard of accountability as Israel under international law); see Jordaan, supra note 4, at 590 (noting that Israel and Palestine do not have equal recognition by international legal standards).

203. Oslo I, supra note 20; Oslo II, supra note 20; Dajani, supra note 24, at 79. ("Although the PLO and the PA each fulfill aspects of the objective criteria for statehood at least as well as some recognized States, the two bodies do not, together, form a unit independent and unified enough to constitute a state.").

204. See Beres, supra note 197, at 271 (stating two parties should not be held to same standards of accountability because of their unequal obligations). In response, another scholar states that since both entities are "subjects of international law" and both intend to be bound, Oslo I is a binding agreement; see also Quigley, supra note 50, at 288 (responding to Beres).

205. See Jordaan, supra note 4, at 591 (claiming that Israel's delays and threats to change Oslo II have lead investors to be wary, which frustrates Palestinian people and their cause). Scholars also claim that it is essential for Israel to guarantee that any contract entered into between foreign investors and Israel will be honored by Israel. Id. at 594.

206. See Dajani, supra note 24, at 69 (noting that Oslo Accords are not unilateral enactments by State of Israel, but instead are international agreements).

207. Louis Rene Beres, Israel After Fifty: The Oslo Agreements, International Law, and National Survival, 14 CONN. J. INT'L L. 27 (1999) (stating that PLO is known terrorist organization); see also Rubin, supra note 34, at 150 (according to 1986 poll of West Bank Palestinians, who are most moderate segment of Palestinians, around "88 percent justified seizing an Israeli bus and murdering a teenaged passenger; about 21 percent endorsed placing bombs on civilian airliners (60 percent if the target was an El Al plane), and nearly 37 percent backed the machine-gunning of travelers in the Vienna and Rome airports.").

208. See Beres, supra note 197, at 271 (specifically objecting to clause releasing PLO members); accord Inafuku, supra note 75, at 367 (stating that despite fact that terrorism attacks all states and, therefore, is universal problem, still believe that peace
feat of terrorism, some scholars maintain that an agreement is needed whereby all states agree to either extradite or prosecute terrorists.209 One expert states that it is a violation of Principle I of the Nuremberg Principles to form any agreements with a terrorist organization calling for the release of terrorists.210 It must be noted, however, that the United States and the Russian Federation witnessed Oslo I211 and the United States, the Russian Federation, Egypt, Jordan, Norway, and the European Union all witnessed Oslo II.212

B. Violations of the Oslo Accords

There have been many violations of the Oslo Accords by both the Israelis and the Palestinians.213 The Palestinian Charter, which calls for jihad214 and thereby the destruction of the Jews, was to be amended.215 Also, article XXII of Oslo II calls for abstention of incitement, including use of propaganda,216 yet

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209. See Inafuku, supra note 75, at 367 (quoting Ambassador Robbie Sabel finding that terrorism is “phenomenon that requires regional cooperation . . . [o]ur aim as lawyers must be to provide the legal framework whereby such individuals have no safe haven”); see also, Beres, supra note 197 (stating that no government has right to lawfully pardon or grant immunity to terrorists who have violated international law).

210. Beres, supra note 197, at 269; see Steven Fogelson, The Nuremberg Legacy: An Unfulfilled Promise, 63 S. CAL. L. REC. 833, 833 (1990) (stating that Nuremberg represents first real attempt to merge international law with fundamental moral principles and “gave notice to the nations of the world that, henceforth, claims of absolute sovereignty must yield to the world community’s claim on peace.”); see also Louis Rene Beres, After the “Peace Process:” Israel, Palestine, and Regional Nuclear War, 15 DICK. J. INT’L L. 301, 301 (1997) (stating opponents of Oslo Accords also believe that creation of Palestinian State from territories is expected to reduce tension in Middle East, but more likely outcome is encouragement of war and terrorism).

211. Olso I, supra note 20, at 1544.

212. Oslo II, supra note 20, at 568.

213. See e.g., Oslo Scorecard, supra note 198, (giving “scorecard of both the Palestinian and Israeli violations”).

214. See WEBSTER’S NEW COLLEGIATE DICTIONARY 617 (1st ed. 1979) (defining jihad as “a holy war waged on the behalf of Islam as a religious duty”).

215. See Louis Rene Beres, The Oslo Agreements in International Law, Natural Law, and World Politics, 14 ARIZ. J. INT’L & COMP. L. 715, 734 (1997) (quoting Palestinian Charter as saying “. . . [t]here is no solution to the Palestinian problem except by Jihad . . . I will assault and kill, assault and kill, assault and kill.”); see also Oslo II, supra note 20, at 569 (providing for making necessary changes to Palestinian Charter).

216. See Oslo II, supra note 20, art. XXII, at 566 (providing “Israel and the Council shall seek to foster mutual understanding and tolerance and . . . shall take legal meas-
both sides feel that the other is guilty of using propaganda to incite their populace.\textsuperscript{217} Terrorism, however, seems to be the violation that is stalling the peace process the most.\textsuperscript{218} Upon close analysis, it appears that the Oslo Accords have been implemented in some instances, while stalling in others.\textsuperscript{219}

1. Palestinian Violations

The PLO's charter rejects a peaceful solution to the situation, and calls for the destruction of Israel.\textsuperscript{220} An amendment to the Palestinian Charter was one of the preconditions for Israel recognizing the PLO.\textsuperscript{221} On September 9, 1993, Yasser Arafat wrote a letter to Prime Minister Yitzak Rabin affirming that the clauses calling for the destruction of the Jews no longer exist, but the Council, at that time, still needed to vote on the change to make it official.\textsuperscript{222}

Scholars note that Arafat's reluctance to challenge the opposition to changing the charter can be interpreted as his fear of a Palestinian civil war.\textsuperscript{223} Many radical Palestinians prefer a holy


\textsuperscript{219} See Oslo Scorecard, supra note 198 (stating Israel left West Bank, but later than called for in agreement); see also Letter Transmitting the National Council's Resolution to Amend the Palestinian National Charter Fulfilling the PLO Obligations, 36 I.L.M. 771 (1997) (amending Charter, but three years late).

\textsuperscript{220} See Molkner, supra note 136, at 1424 (demonstrating Palestinian leaders' conflicting political pressure: jihad or peace).

\textsuperscript{221} See Oslo II, supra note 20, at 568 (undertaking to change Charter)

\textsuperscript{222} See Israel-PLO Recognition (visited March 10, 1999) <http://www.mfa.gov> (on file with the Fordham International Law Journal) ("those articles of the Palestinian Covenant which deny Israel's right to exist... are now inoperative and no longer valid. Consequently, the PLO undertakes to submit to the Palestinian National Charter for formal approval the necessary changes in regard to the Palestinian Covenant."). In a subsequent letter dated the same day, Rabin wrote that due to the PLO commitments of Arafat's letter, Israel would recognize the PLO as the representatives of the Palestinian people. \textit{Id.}

\textsuperscript{223} See James Bruce, \textit{The PLO, Israel and Security-Part 2: The Peace Process Under
war to regain territory rather than peace.\textsuperscript{224} As long as the Charter remained unchanged, commentators stated that the security measures taken by the Israeli government were justified.\textsuperscript{225}

In April 1996, the PLO and the Council decided to amend the Charter.\textsuperscript{226} The Israeli government was not satisfied with the amendments.\textsuperscript{227} In December 1998, the Central Council of the PLO, who are the core members of the Council, ratified the amendments to the PLO Charter.\textsuperscript{228} A week later, all of the present Council members accepted the content of Arafat's letter to U.S. President William Clinton.\textsuperscript{229} The letter detailed twenty-six articles that had been renounced.\textsuperscript{230} Numerous members of the Palestinian Council boycotted the meeting though, leading commentators to believe they did not want to move forward

\textit{Attack, 8 JANE'S INTELLIGENCE REV. 220 (1996)} (claiming that until Arafat can prove that "Palestinians are masters of their own destiny" there is strong chance of opposition from within which makes him vulnerable to Israeli pressure on security).

\textsuperscript{224} Jordaan, \textit{supra} note 4, at 565. Shoham, \textit{supra} note 16, at 246. This is not to say that there are no Israeli radicals who are against the peace process. Shoham, \textit{supra}. In Israel there is an extreme right that wants to annex the territories, an extreme left that wants an immediate state of Palestine, and the majority of the population who realize that control of the territories is currently necessary. \textit{Id.} See Dallal, \textit{supra} note 88, at 44 (linking assassination to outcry of Jewish settlers in response to Oslo I and Oslo II). Also, a Jewish extremist assassinated Rabin. Dallal, \textit{supra}.

\textsuperscript{225} See Jordaan, \textit{supra} note 4, at 565 (finding that PA is actually doing Palestinians disservice by refusing to amend Charter).

\textsuperscript{226} See Letter Transmitting the National Council's Resolution, \textit{supra} note 219, at 772 ("[T]he Palestinian National Charter is hereby amended by cancelling the provisions that are contrary to the letters exchanged between the PLO and the government of Israel on 9/10 Sept. 1993.").

\textsuperscript{227} See Morton A. Klein, \textit{PLO's Vote Didn't Change the Covenant}, JEWISH POST OF NEW YORK (visited Feb. 1, 1999) <http://www.jewishpost.com/jp0205/jpn0205a.htm> (on file with the Fordham International Law Journal) (stating that it "used future tense and was unspecific").

\textsuperscript{228} See Joel Greenberg, \textit{Council Backs Revoking Call To Destroy Israel}, THE PATRIOT LEDGER, Dec. 11, 1998, at 5 (reporting that by this action, PLO Central Council was "setting the stage for a broader meeting with President Clinton" to affirm that articles calling for Israel's destruction have been amended). This action was done in preparation for President Clinton's visit to the region in order to prove that the Charter had indeed been amended in accord with the Wye River Memorandum. \textit{Id.}

\textsuperscript{229} See Palestine/Charter-3: No Count Taken, DOW JONES NEWS SERVICE, Dec. 14, 1998 (noting Israel said in response they would not pull back troops that week as required under Wye, but instead would wait for Arafat to publicly withdraw from plans to declare independent Palestinian state in May of 1999 and would wait for them to crush the riots in the West Bank).

\textsuperscript{230} See Barbara Demick, \textit{Many Palestinians Unwilling To Quit Struggle with Israel}, SEATTLE TIMES, Dec. 14, 1998, at A16 (explaining there are only 33 articles total in charter).
peacefully with Israel.\textsuperscript{231}

Some scholars claim that the use of hostile propaganda has not ended, and thus constitutes a violation of Oslo II.\textsuperscript{232} Commentators further posit that Palestinians use their children in the propaganda war against Israel.\textsuperscript{233} Also, Israel is not included on the map of the Middle East on the Palestine web site.\textsuperscript{234} This maneuver conflicts with Palestine's stated goal to recognize Israel's statehood, as part of the compliance measures detailed in the Oslo Accords.\textsuperscript{235} Instead, the entire land of Israel is labeled Palestine.\textsuperscript{236} When described in the geography page, Palestine is described as encompassing Israel and the occupied territories.\textsuperscript{237}

Since the Oslo Accords were signed, terrorism, especially suicide bombers, has increased greatly.\textsuperscript{238} Arafat allows Hamas to

\begin{itemize}
\item \textsuperscript{231} See id. ("unwilling to give up an armed struggle against Israel" and accusing Arafat of padding attendance with his own loyalists).
\item \textsuperscript{232} See Oslo II, supra note 20, art. XXII (preventing use of propaganda by either side); see also Senior Palestinian Officials Continue to Incite Against Israel in Violations of Oslo, Israeli Government Press Office, May 29, 1997, (visited Feb. 16, 1999) \url{http://www.isrinfo.demon.co.uk/articl24.htm} (on file with the Fordham International Law Journal) (quoting statement made on PA's Voice of Palestine by cabinet in Nablus on May 16, 1997). Palestinian propaganda has included the following radio announcement:
\begin{quote}
We did not pay with the dear blood of thousands of martyrs so that the Israeli government could establish settlements on our land in the name of peace. We have sacrificed in the past and we will be ready to sacrifice again in the future for the sake of liberating our land and returning it to the bosom of the Palestinian nation and for the sake of establishing an independent Palestinian state whose capital is Jerusalem.
\end{quote}
\emph{Id.}
\item \textsuperscript{233} See Oslo Scorecard, supra note 198 (arguing that this is contrary to fostering atmosphere of peace and tolerance as was undertaken at Oslo).
\item \textsuperscript{234} Map of Palestine (visited February 16, 1999) \url{http://www.palestine-net.com/geography/gifs/palmap.gif} (on file with the Fordham International Law Journal); see generally Beres, supra note 197, at 279 ("Indeed, even Israel's 'friends' in the Middle East, i.e., Egypt and Jordan ... do not include Israel on any of their maps.").
\item \textsuperscript{235} See Oslo I, supra note 20, at 1527 (recognizing Resolutions 242 and 338 that call for respect and recognition of all of states in Middle East area).
\item \textsuperscript{236} Id.
\item \textsuperscript{237} See Palestine: Geography (visited Feb.16, 1999) \url{http://www.palestine-net.com/geography/>} (on file with the Fordham International Law Journal) (defining Palestine as "currently under occupation ... located on the East Coast of the Mediterranean Seas, West of Jordan and to the South of Lebanon. The territory of Palestine covers around 10,435 square miles ... "). This description is of the land of Israel and the Occupied Territories according to the Accords and other nations' maps. \emph{Id.}
\item \textsuperscript{238} See id. (explaining that many terrorist attacks consist of Palestinian suicide bombers, such as one who blew up bus in Jerusalem killing four Israelis, one American, and wounding over 100 people on Aug. 21, 1995); see also Death Toll Since Oslo Is 50%
set up base in the Gaza Strip, which appears to contradict any efforts to stop terrorism. Also in violation of Oslo II, Arafat invited Hamas to join the PA. In March 1997, Netanyahu said that the PA’s approval of terrorism against Israel had hurt the peace process to an extent that brought it to a virtual collapse. Due to the rise of terrorism, Israel conditioned the continuation of the peace process on Arafat’s commitment to ending terrorism. In March 1996, Arafat condemned terrorist bombings and arrested 150 people linked to Hamas’ military wing. It has also been reported that there have been hundreds of suspected terrorists arrested in the Gaza Strip.

Israel has had trouble trying to transfer Palestinian criminals back into Israel to be tried for their crimes. Arafat’s reluctance to address terrorism and to transfer requested terrorists to Israel can be linked to his fear of starting a civil war with Hamas or other Palestinian terrorist organizations. For example in February 1999, a suspected member of Hamas,
who also served in the Palestinian Security Force, was sentenced to death by the PA for killing a Palestinian police officer. The passing down of this sentence led to riots in the Gaza Strip, where Palestinians threw stones at the Palestinian police who retaliated with their guns and clubs, as well as tear gas.

2. Israeli Violations

Alternatively, the PA claims that Israel also violated the Oslo Accords by utilizing propaganda techniques. Scholars explain that Palestine objects to Israel's use of the terms Judea and Samara even though both sides make use of the term West Bank in the Oslo Accords. Also, talks have stalled over differences between the parties about security, and Israel has not therefore reached an agreement about safe passage between the West Bank and Gaza Strip or an airport in the Gaza Strip.

In September 1996, protests over Israeli construction of a tunnel in Jerusalem turned violent and Israeli soldiers killed two Palestinians. Several months before, a Hamas bombmaker was killed by an Israeli booby trap. Hamas responded to the...
Israeli booby trap by claiming that they would refuse to stop the bloodshed until Israel stops their terrorism and releases Hamas prisoners.\textsuperscript{255} Israelis fear that terrorists who attack within Israel escape punishment by fleeing to the territories governed by the PA.\textsuperscript{256} The lists of the violations continue with many of the agreements not being upheld.\textsuperscript{257} One of the reasons experts posit for Palestinians violating the Oslo Accords more often than Israelis is the notion that Israel is getting the better end of the deal.\textsuperscript{258}

C. Operability of the Oslo Accords

The issues that Israel and Palestine thought would be the most difficult to resolve were put off until the permanent status negotiations.\textsuperscript{259} The issues that were easier to agree upon were made part of either Oslo I of Oslo II.\textsuperscript{260} These more difficult issues include the debate over the status of the territories, the Palestinian refugee/displaced person issue, and the West Bank, Gaza Strip, and East Jerusalem.\textsuperscript{261} The Palestinian leaders and officials are in the position of not knowing what will be the final

\textsuperscript{255} \textit{See id.} (exclaiming that when Israel "stops terrorism against Hamas and releases our prisoners . . . we will reach an historic position . . . not to shed blood in Palestine."). Ghazi Hamad, a senior Hamas official, said "[t]he majority of Hamas members are now ready to give up . . . temporarily . . . the armed struggle against Israel and turn to political activity." \textit{Id.}

\textsuperscript{256} \textit{See Weiner, supra} note 91, at 389 (noting PA has refused from outset to transfer people suspected of terrorism). According to both the Cairo Agreement and Oslo II, Israel has exclusive jurisdiction when terrorists attack Israel. Oslo II, \textit{supra} note 20 at 637; Cairo Agreement, \textit{supra} note 182, at 693. No person however, is allowed to be transferred if the offense could carry a capital punishment sentence, unless the requesting side asserts that capital punishment will be waived in the case. Oslo II, \textit{supra}.

\textsuperscript{257} \textit{See Beres, supra} note 197, at 515-16 (including PA having too many police, failure to extradite or punish terrorists, detainment of Israeli citizens, and failure to confiscate arms and disarm militia).

\textsuperscript{258} \textit{See Quigley, supra} note 50, at 297 (stating that even if Israel were to concede maximum that Palestinians want, including all of Jerusalem, status quo prior to 1948 still would not be restored). Quigley noted that "[f]or Israel, the Oslo agreements do not represent a bad bargain." \textit{Id.} This theory is not fully accurate considering that Palestine was never an independent state. \textit{Id.}

\textsuperscript{259} Oslo I, \textit{supra} note 20, at 1528; Dajani, \textit{supra} note 24, at 68. As pointed out earlier, the language of the agreements, as well as leaving the more difficult issues open until the end, has caused scholars to wonder whether the two parties have agreed from what or to what they are making a transition. \textit{Id.} \textit{See Inafuku, supra} note 75, at 365 (printing Ambassador Elaraby's speech that says "there is not enough clarity about what course should be attained in the following phase").

\textsuperscript{260} Oslo I, \textit{supra} note 20; Oslo II, \textit{supra} note 20.

\textsuperscript{261} Oslo I, \textit{supra} note 20, at 1528.
status of the territories.\textsuperscript{262} Also the debate about how many people can be considered either a displaced person or a refugee and who will be allowed to return is identified as an issue having a large role in the permanent settlement negotiations.\textsuperscript{263} Many scholars consider Israel as belligerent occupiers of the West Bank and Gaza Strip, which could effect the permanent status negotiations as well.\textsuperscript{264} One of the most potentially controversial debates will occur over East Jerusalem, due to the many holy sites located there.\textsuperscript{265} Finally, the question of an independent Palestinian State and where it will be located, needs to be addressed in the permanent status negotiations.\textsuperscript{266}

1. Transfer of Authority

In this state of uncertainty, the Palestinians are responsible for the administration of the territories under their jurisdiction.\textsuperscript{267} Further, there is the additional problem that no truly authoritative sovereign exists to whom the territories can be returned.\textsuperscript{268} When Israel acquired the territories during the Six-Day War, it immediately tried to give them back to the nations from whom it had won from, in return for peace.\textsuperscript{269} When this

\begin{itemize}
\item \textsuperscript{262} See Molkner, \textit{supra} note 136, at 1428 (giving examples of independent state or one which is confederation with Jordan).
\item \textsuperscript{263} Oslo I, \textit{supra} note 20, at 1528; Weiner, \textit{supra} note 2, at 7-8. "Conflicts over the precise definition of "refugee" and "displaced person," and the extent to which these Palestinians or their descendants and relatives by marriage have retained or acquired their refugee or displaced person status are crucial to the negotiation on the Palestinian return issue." \textit{Id.}
\item \textsuperscript{264} See Quigley, \textit{supra} note 50, at 289-90 (claiming that Israel has not claimed sovereignty in West Bank); see also John Quigley, \textit{Living in Legal Limbo: Israel's Settlers in Occupied Palestinian Territory}, 10 PACE INT'L L. REV. 1, 11 (1998) (stating that West Bank and Gaza Strip fall under belligerent occupation which occurs whenever foreign army occupies territory, regardless of whether they were acting aggressively or defensively).
\item \textsuperscript{265} See Inafuku, \textit{supra} note 75, at 369 (discussing that all three major religions have interest in Jerusalem, but it has had Jewish majority for over 100 years).
\item \textsuperscript{266} See Dallal, \textit{supra} note 88, at 50 (finding creation of independent Palestinian State inevitable).
\item \textsuperscript{267} See Oslo II, \textit{supra} note 20, at 558-59 (discussing that PA will be in charge of government in territories).
\item \textsuperscript{268} See Beres, \textit{supra} note 210, at 326-27 ("As a legal entity, Palestine ceased to exist in 1948, when Great Britain relinquished its League of Nations mandate. Prior to that decisive moment in history, which was followed by Israel's declaration of independence on May 14, 1948, Palestine had never existed as an independent sovereign state.").
\item \textsuperscript{269} See Shoham, \textit{supra} note 16, at 249 (noting that accepting land would have meant negotiating with Israel, and Arab nations refused to negotiate with Israel).
\end{itemize}
offer was rejected by the Arab Nations, Israel adopted a mixed approach to governing the territories.\textsuperscript{270} As more time passed, however, Israeli authorities were forced to delve into additional civil spheres in the territories.\textsuperscript{271}

One scholar has suggested that since statehood will not be conferred on the territories until the permanent settlement negotiations conclude, pending these negotiations the territories are, at least to some extent, under Israeli control.\textsuperscript{272} Therefore, these early negotiations legalize the settlements.\textsuperscript{273} Either way, Resolution 242, which Israel and the PA agreed to accept in the Declaration of Principles,\textsuperscript{274} calls for an end of the occupation of these territories.\textsuperscript{275}

2. Refugee and Displaced Person Issue

The Palestinians base their struggle for national independence on the legal foundation of self-determination.\textsuperscript{276} Commentators note that self-determination only becomes a legal right, however, when it is invoked by groups who are recognized as a people and it is used with regard to a territory that can serve as its own unit.\textsuperscript{277} Palestinians argue that they meet these criteria since the United Nations has recognized the Palestinians to be a people and declared that they have the rights to self-determination.\textsuperscript{278}

\textsuperscript{270} See id. at 250 (noting that Israel was instructed to abide by Hague Regulations as well as other various international conventions applicable to occupied territory). Shoham also explained that "Israel would not acknowledge \textit{de jure} that the Territories are occupied territory, thereby effectively setting aside the political aspect of the question, but it would govern the Territories \textit{de facto} under the provisions of customary international law applicable to belligerent occupation."

\textsuperscript{271} See id. at 253 (explaining that existing legislature in place in Territory was lacking).

\textsuperscript{272} See Oslo I, supra note 20, at 1529 (leaving difficult issues, such as state status, to final settlement negotiations).

\textsuperscript{273} See Quigley, supra note 265, at 11 (noting that agreements appear to constitute acknowledgement by PLO that Israel is legally maintaining settlements).

\textsuperscript{274} Oslo I, supra note 20, at 1527.

\textsuperscript{275} Resolution 242, supra note 57.

\textsuperscript{276} See Dajani, supra note 24, at 29-30 (arguing that self-determination has been elevated to right since "both the International Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights state that 'all peoples' have a right to self-determination.").

\textsuperscript{277} Id. at 32-33.

\textsuperscript{278} See e.g., Resolution 242, supra note 57 (referring to concept of self-determination). Though the term self-determination is not used, the Resolution calls for "guaranteeing the territorial inviolability and political independence of every State in the area
One scholar has suggested that in 1922, when Transjordan was established as an independent principality, it was to be a Palestinian Arab state. Therefore, whatever legal rights the Palestinians have to self-determination have already been fulfilled. Whether Israel has recognized the Palestinian’s right to self-determination or not, there is some recognition to the Palestinian’s claim to land, as seen through the transfer of power in certain territories to Palestine.

There are different classifications of Palestinians that may affect their right to return to a newly formed Palestinian State. Refugees are generally considered to be the people who left or were forced to leave their homes in what is now Israel during the fighting that occurred in 1948. Displaced persons are those who left Israel after the Six-Day War.

Some commentators contend that due to their direct military action, Israel forced out the Palestinians. Jordan, who annexed the West Bank, offered Jordanian citizenship to the

\ldots \text{” Id. The Resolution never uses the word Palestine or Palestinian. Id.; see also Inafuku, supra note 75, at 364 (quoting speech of Ambassador Eleraby stating that Palestinians need to exercise all of their “inalienable rights including the right to self-determination.”).}

279. See JULIUS STONE, ISRAEL AND PALESTINE 22-25 (1981) (stating that designation of “Palestine referred historically to the territory on both sides of the Jordan River.”).

280. Dajani, supra note 24, at 35 n.45.

281. See Lustick, supra note 74, at 742 (explaining that Jewish people emphasize inevitable sacrifice of Jewish control and sovereignty over parts of Israel and that Palestinians emphasize right of return and humiliating weakness and dependence that will probably be part of new Palestinian State).

282. See, e.g., Weiner supra note 2, at 8 n.7 (separating refugees and displaced persons).

283. See id. at 5 (noting that these people pose “thorniest” part of peace process since, when their spouses and offspring are included, there may be millions of individuals). The number of people who actually left in 1948 is strongly debated, ranging from around 604,000 to 900,000. Id. at 7.

284. See id. (noting there is debate not only on number of displaced persons, but also on number of old displaced persons—those who left their residences for second time—and new displaced persons—those who only left once). Presumably, counting old displaced persons would be unfair since it would count the same person twice. Id. The disparity between the numbers of these people, including refugees, has widened over the decades. Id.

285. See John Quigley, Displaced Palestinians and a Right of Return, 39 HARV. INT’L L.J. 171, 172 (1998) (finding that “analysis of the wartime displacement issue is complicated by the fact that the two parties disagree not only over the law but also over the facts . . .”).

286. See Quigley, supra note 264, at 20 (noting Jordan renounced claim of West Bank in favor of Palestine).
Palestinians. The Israelis, conversely, claim that they neither directly nor indirectly forced the Palestinians to leave.

Israel also claims that it is probably inequitable to require them, as the country of origin, to bear the entire burden of rehabilitating these refugees when the surrounding Arab Nations would not grant citizenship. Despite its fears, Israel has let 100,000 displaced persons/refugees back through “family reunification” as of 1997. Almost one million Palestinians have been granted full Israeli citizenship.

3. West Bank and the Gaza Strip

The United States deems Israel as an occupying power in the West Bank and the Gaza Strip, and therefore subject to the Hague Regulations. Israel rejects the idea of the territories as being occupied. Some commentators believe that Israel wants to control the lives and movements, as well as the ultimate

287. See Rubin, supra note 34, at 9 (offering that this was done to give alternative loyalty).
288. See Quigley, supra note 285, at 172 (explaining that Israel claims that Palestinians left on their own accord).
289. See Quigley, supra note 264, at 44 (stating that refugees could have been absorbed into countries to which they fled but were not because those countries favored formation of independent state to absorb refugees instead). It has been posited that a large percentage of Palestinian refugees must be absorbed permanently into either the countries of their current residence, or in the other neighboring countries in the Middle East. Id.; see also Inafuku, supra note 75, at 370 (quoting Donna E. Arzt as also saying that result could be acceptable to Palestinians so long as they are compensated for their abandoned property and given dual citizenship).
290. See Beres, supra note 210, at 302 (noting that areas to which these refugees return act as buffer zone for Israel from surrounding Arab Nations).
294. See Beres, supra note 210, at 330 (noting that their right to reject idea of territories as occupied stems from right to security).

Because transformation of these lands into an Arab state of Palestine would threaten the very existence of the Third Temple, Israel is under no obligation to transfer the West Bank and Gaza to another sovereign authority especially as the extant Arab states, together with Iran, persistently call for ‘elimination’ or ‘liquidation’ of the ‘Zionist entity’. Id. at 330.
destiny, of the Palestinians, even though it may have relinquished some control of the Gaza Strip and the West Bank.295

Some critics note that Israel has had problems trying to maintain the territories and therefore Israel is not necessarily in a weaker position for relinquishing control of the territories.296 Others state that it may be more practical for Israel to relinquish sovereignty gradually and in proportion to Palestinian compliance with Oslo II.297 Shortly after being elected prime minister, Binyamin Netanyahu said that he would seek reciprocity, and a fulfillment of all of the commitments.298

The implementation of Oslo II began with the Gaza Agreement being applied within weeks of its signing.299 This gave the Council control of most of the Gaza Strip.300 Also, due to the redeployment set out in Oslo II, approximately ninety-five percent of Palestinian residents of the West Bank are under the jurisdiction of the Council.301

One of the debates is whether Israeli settlements can be built in the occupied territories.302 Under the Geneva Civilians Convention,303 occupying powers cannot transfer their own civilians onto the land that they are occupying.304 Since the 1993

295. See Dallal, supra note 88, at 53 (claiming that this feeling perpetuates tension between Israelis and Palestinians).

296. See Quigley, supra note 50, at 296 (finding that giving up control of territories "does not take Israel from an obviously stronger to an obviously weaker position" and positing that peace with Palestinians is only way that Israel can maintain decent relations in long term, not only with its neighbors, but with world at large).

297. But see Jordaan, supra note 4, at 559 (arguing that dispute settlement is also viable alternative to helping peace process).

298. See Weiner, supra note 91, at 432 n.78 (quoting interview with David Makovsky in Jerusalem Post, June 28, 1996, at 7).

299. See Cairo Agreement, supra note 182.

300. See Shoham, supra note 16, at 270 (effectively leaving Israel in control of only minute portions of area, including 100-meter wide security strip along Egyptian border and several Israeli settlements).

301. Id. However, Israel's Area C, where Israel retains control, comprises 70% of the territory of the West Bank. Id. at 273 n.48.

302. See Quigley, supra note 264, at 12 (stating that international community believes Israel to be in violation of international standards for its settlement construction activity).


304. Id.; See Quigley, supra note 264, at 12 (stating that occupying power must leave land to population that it finds there). The United Nations is expected to pass a resolution calling for another Geneva Convention on "illegal" activities by Israel in the
negotiations and the signing of Oslo I, there has been settlement construction in the territories.\textsuperscript{305} Disputes over the building of new settlements have stalled the peace process.\textsuperscript{306}

Certain factors make it difficult to imagine the West Bank and Gaza Strip as forming the state of Palestine in the final settlement negotiations.\textsuperscript{307} After the 1948 war and prior to Palestinian self-rule, the West Bank and the Gaza Strip each functioned as distinct civil administrations.\textsuperscript{308} The two areas are not in close proximity to one another\textsuperscript{309} and it is often difficult for Palestinians, including public officials, to get permission to cross through Israel to get to the other territory.\textsuperscript{310} Finally, the legal system of the Gaza Strip derives from English common law whereas the legal system of the West Bank derives from civil law.\textsuperscript{311}

One contention is that under the laws of belligerent occupation, Israel is permitted to protect the security of its temporary hold on the land and the Israeli settlements serve this purpose.\textsuperscript{312} In line with this reasoning, the city of Hebron, in central Israel, has also caused much controversy.\textsuperscript{313} Palestinians
comprise the majority of the population in Hebron. There are approximately 500 Jews that live in downtown Hebron as well as major religious sites, and due to concerns for their safety, Hebron was the last city to be turned over to the PA. Under Oslo II, Hebron was to be split into two sections: one in which Palestine would have partial jurisdiction, and one in which Israel would remain in control. In 1998, there was a decrease in the number of riots by settlers in Hebron. Most Arab and Jewish residents agree, however, that the Hebron Protocol has failed and there is still tension and strife in the region.

Reporters note that the Jewish community in Hebron was disappointed in March 1997 when they learned that building permits and expansion plans would not be approved in the near future. The debate over who can build where has increased tensions in Hebron. The mayor of Hebron has stated that conditions have improved for the Palestinians living under Palestinian control, but has worsened for those living in the areas because of ongoing violence in Hebron... according to Prime Minister Binyamin Netanyahu.

315. See Zalmon Shoval, In Hebron, a Brewing Crisis, WASH. TIMES, July 10, 1997, at A15 ("The late David Ben-Gurion said after the Six-Day War that Hebron, the cradle of the Jewish faith and nationhood, was just as holy as Jerusalem and that it should be settled by tens of thousands of Jews.").
316. See Weiner, supra note 91, at 377-78 (noting that there were many violent encounters between Jews and Arabs in Hebron post 1967).
317. Oslo II, supra note 20, at art. VII (noting there was six month window after agreement was signed for redeployment to occur); see also Dajani, supra note 24, at 64 (claiming that Netanyahu has expressed dissatisfaction with this agreement).
319. See Hebron Protocol, supra note 190.
320. See Margot Dudkevitch & Mohammed Najib, Hebron Agreement One Year Later: Disappointment and Tension on Both Sides, JERUSALEM POST, Jan. 15, 1998, at 2 (claiming that 54 families living in Hebron's Jewish Quarter feel that safety has declined and that high gates, to keep stones from hitting their homes, makes it feel like ghetto).
321. See Margot Dudkevitch, No New Building Permits for Hebron's Jews, JERUSALEM Post, Feb. 17, 1997 (visited Mar. 18, 1999) <http://www.jpost.com/com/Archive/17.Feb.1997/News/Article-1.html> (on file with the Fordham International Law Journal) (stating Israeli Defense Secretary needs to approve all building plans in settlements). 322. See id. (stating settlers and Arabs threw eggs and oranges at each other because Arabs built market that Jews thought was on their land). The Jews in Hebron want to expand their settlement and claim that their living quarters are like a ghetto. Id.
under Israeli control. Netanyahu's policy adviser agreed that, disappointingus, the Hebron Protocol has not brought about the desired result of peace in the region.

4. East Jerusalem

When discussing Jerusalem, the Palestinian claim to self-determination is an attempt to assert sovereignty over an administrative unit, East Jerusalem, which, prior to Jordan's invasion in 1948, had no independent existence. Israel declared West Jerusalem its capital in 1948 and in 1967 it declared the undivided Jerusalem its capital. Jerusalem has had a Jewish majority for at least the past 100 years. The importance of Jerusalem lies mainly in its holy sites. For Jews there is the Western Wall of the Holy Temple, for Muslims the Dome of the Rock, and .

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323. See Dudkevitch, supra note 321 (noting that Shuheida Street, which under Agreement was supposed to be open to Palestinian traffic, still remains closed to Palestinians). Many settlers feel that opening Shuheida Street will bring terrorists to their doorsteps. Id.

324. See id. ("[I]t did not bring about progress in the peace process, mainly because the Palestinians failed to perceive it as a first step to greater understanding between Israel and the Palestinian people."). Palestinians expected further withdrawals despite their lack of compliance with the Oslo Accords. Id.

325. See Ben-Asher & Leaf, supra note 5, at 172-73 (explaining Jerusalem is divided into New City, which Israel acquired in 1947, and Old City or East Jerusalem, which Israel took from Jordan in 1967).

326. See Charles Bryon Baron, The International Legal Status of Jerusalem, 8 TOURO INT'L L. REV. 1, 4 (1998) (discussing that Turks were in control of Jerusalem from 1517 to 1917 when British took control of Jerusalem, and that neither viewed it as east and west Jerusalem, but as unified).

327. Id. see Dallal, supra note 88, at 50 n.58(quoting Basic Law: Jerusalem, Capital of Israel in 34 LAWS OF THE STATE OF ISRAEL 209 (1980)) (noting Israeli Knesset in 1980 declared "Jerusalem, complete and united . . . the capital of Israel."). This is a sore issue between the parties since the "Israeli argument essentially amounts to the establishment of a new principle of international law, namely, the acquisition of territory by lawful force, coupled with a more compelling argument based on pure self-determination for the people of Jerusalem, of which the Jews have long compromised the majority." Dallal, supra, at 32. It however, easily can be concluded that between 1948 and 1967, Jordan was a belligerent occupier of East Jerusalem. Id. at 16, 78 n.58. Soon after the Six-Day War, Israel attempted to annex East Jerusalem with Law and Administration Ordinance No. 11 in 21 Laws of the State of Israel 75 (1967).

328. Accord Inafuku, supra note 75, at 369 with Baron, supra note 327, at 32 (both concurring on point).


330. Id. at 18 (noting that Jewish bridegroom crushes glass under his foot at his wedding to symbolize grief of destruction of Temple in Jerusalem as well as praying that there will be dancing in streets of Jerusalem). Even the word Zionism stems from Mount Zion in Jerusalem. Id. At the end of every Passover seder the words, "Next Year
for Christians, the Church of the Holy Sepulcher.\textsuperscript{332}

In September 1996, Arafat proclaimed that Jerusalem would be the capital of Palestine.\textsuperscript{333} Days after the Hebron Protocol was signed, Arafat again declared that Jerusalem would be the capital of Palestine.\textsuperscript{334} East Jerusalem is still legally considered by some to be part of the occupied West Bank and illegally annexed by Israel.\textsuperscript{335} Along those lines, however, Jordan, as the ousted state, was only a belligerent occupier of the region and there only to safeguard the area, with no right to reversion.\textsuperscript{336} Neither Oslo I nor Oslo II allots the PA jurisdiction in Jerusalem, either over the city, or over the Palestinian residents.\textsuperscript{337} The Camp David Agreements and the peace treaty between Egypt and Israel do not mention Jerusalem.\textsuperscript{338}

The building of settlements in Jerusalem has been a source of much contention.\textsuperscript{339} As previously mentioned, in September in Jerusalem" are proclaimed. \textit{Id.} It must be noted, though, that the Western Wall is in Eastern Jerusalem, so if there were no free access to Eastern Jerusalem, as was the case when Jordan was occupying the area from 1948-1967, the Jews would have no access to the Wall. \textit{Id.; Baron, supra note 326, at 35.}

\textsuperscript{331.} \textit{See Collins & Lapierre, supra note 2, at 33} (stating that for Muslims, Dome of the Rock, Quebbet es Sakhra, also in Jerusalem, houses Mount Moriah of antiquity). The Mount Moriah has a faint impression of the handprint of Gabriel from the night Prophet Mohammed descended from heaven. \textit{Id.}

\textsuperscript{332.} \textit{See id. at 32} (stating one of most sacred shrines in Christendom, Church of the Holy Sepulcher, which is built over hill top where Jesus Christ was crucified, is just few hundred yards away from other two holy sites).

\textsuperscript{333.} \textit{See Beres, supra note 197, at 275-76} (noting that Arafat committed violation when he proclaimed that "Palestine is our land and Jerusalem is our capital."). In the same speech, Arafat said that they planned to eliminate the State of Israel and praised the suicide bombers who had murdered women and children, calling them martyrs. \textit{Id.}

\textsuperscript{334.} \textit{See Weiner, supra note 91, at 398} (offering that anyone who did not like that idea should drink from Dead Sea).

\textsuperscript{335.} \textit{See Dajani, supra note 24, at 64} (allowing that 5000 Palestinian residents of East Jerusalem were permitted to register to vote in the Council elections).

\textsuperscript{336.} \textit{See Baron, supra note 327, at 29} (noting that United Nations has left all options concerning Jerusalem open). Neither the U.N. General Assembly nor the Security Council protested when Israel made Western Jerusalem its capital in 1950. \textit{Id. at 20.}

\textsuperscript{337.} \textit{Dajani, supra note 24, at 64}. This is one of the items put off until the permanent status negotiations due to the sensitivity of the issue. Oslo I, \textit{supra} note 20, at 1528.

\textsuperscript{338.} \textit{See Baron, supra note 327, at 12, 43 n.73} (noting, however, both President Sadat and Prime Minister Begin sent letters to President Carter outlining their thoughts on Jerusalem).

\textsuperscript{339.} \textit{See Daoud Kuttab, Bloody Road to Peace Apartheid-Style Obstacles Stalk the Palestinians, Phoenix Gazette, Dec. 30, 1996, at B5} ("There is no issue that angers Palestinians these days more than the issue of Jewish settlements in the occupied Palestinian territories.").
1996 Israel opened a new entrance to a tunnel that was next to the Temple Mount.\textsuperscript{340} Jordan demanded that the tunnel be closed, but Israel's conceit to this request would have meant relinquishing some sovereignty in Jerusalem.\textsuperscript{341}

Oslo II does not forbid Israel from building individual homes or even entire neighborhoods in any of the territories.\textsuperscript{342} The settlement of Har Homa,\textsuperscript{343} however, has created much tension between the parties.\textsuperscript{344} The Palestinians claim that the building of the 6500 apartments at Har Homa violates the Oslo Accords.\textsuperscript{345} Palestinians protested in the Gaza Strip with members of the PA and members of Hamas marching arm in arm.\textsuperscript{346} To the Palestinians, the settlements in East Jerusalem are extremely problematic because this area is the land that they are hoping will form their state.\textsuperscript{347} The United Nations has called a conference to discuss the Israeli settlements in the territories.

\begin{footnotesize}
\begin{enumerate}
\item See Tunnel Sparked Clashes in Israel, BALT. SUN, Sept. 30, 1996, at 2A (finding Temple Mount to be holiest place in Jerusalem). All three major religions hold that the faithful will gather at the Temple Mount on Judgement day. \textit{Id.; see also}, Baron, \textit{supra} note 327, at 1 (noting tunnel is actually 400-yard water conduit that passes from Western Wall, under Arab Quarter, and exists on road holy to Christians).
\item Baron, \textit{supra} note 327, at 3. Jordan argues that Israel needed to consult with them according to the Jordanian-Israeli Peace Treaty. \textit{Id.}
\item Oslo II, \textit{supra} note 20; see Weiner, \textit{supra} note 91, at 400 (noting that this contradicts Arafat's claims that Israelis are violating Oslo Accords through settlement).
\item See Netanyah, \textit{Peace Process in 'Virtual Collapse'}, \textit{supra} note 199 (stating that Arab Nations approved resolution to stop steps toward normal relations with Israel, but "Netanyah said he doubts Arab nations would cut ties to Israel because of continuing street battles between Israeli soldiers and Palestinians demonstrating against Har Homa.") There was also resistance by Peace Now, a Jewish Organization, who held a protest while the government was meeting with the contractor's and potential purchasers in regard to Har Homa. \textit{Id.} Arafat has responded by appealing to Arab foreign ministers to stop any steps in regard to "normalizing relations with Israel." \textit{Id.; see also} Hendler, \textit{supra} note 343, at 2 (noting that police barred protestors from entering site and arrested head of protest).
\item See Hendler, \textit{supra} note 343, at 2 (saying that Palestinians feel that Har Homa is part of larger Israeli scheme to separate Palestinian settlements in East Jerusalem from rest of West Bank).
\item See Netanyah, \textit{Peace Process in 'Virtual Collapse'}, \textit{supra} note 199 (quoting Hamas spokesman stating that "This is a clear message to Israel that the Palestinian people are united against Israel's policy on settlements and Judaizing Jerusalem.") \textit{Id.}
\item See Kuttab, \textit{supra} note 339, at B5 ("Every additional Jewish settler and every settlement home built will weigh 10 times its physical size in obstructing even a remotely fair peace agreement based on concept of two states . . . a Palestinian State alongside State of Israel").
\end{enumerate}
\end{footnotesize}
including East Jerusalem.\(^{348}\)

A last indication of the internal conflict within East Jerusalem is evidenced by the fact that its Arab population is eligible to vote for the Council.\(^{349}\) Palestinian security services operate in East Jerusalem and Palestinian institutions continue their operations.\(^{350}\) The PA, however, is not allowed to set up any type of office, not even a symbolic one, in East Jerusalem.\(^{351}\)

5. Declaration of a Palestinian State

Arafat pronounced that on May 4, 1999 he will declare Palestine itself independent state.\(^{352}\) Palestine actually declared itself an independent state in 1988.\(^{353}\) Jordan appeared to accept the Palestinian state, as demonstrated by renouncing its claim to the West Bank.\(^{354}\) Palestinian leadership has asserted that peace and security will only come with an independent Palestinian State.\(^{355}\) Oslo II seems to make the establishment of an in-

\(^{348}\) See U.N. Assembly Approves Talks on Israel Settlements, \textit{Grand Rapids Press}, Feb. 10, 1999, at A10 (noting conference itself was voted against by Israel and United States, but passed by landslide (115-2, with five abstentions); see also Quigley, \textit{supra} note 264, at 13, 27. (stating that most of international community views Jewish settlements in territories as blocking the peace process).

\(^{349}\) See Lustick, \textit{supra} note 74, at 755 (claiming that before Rabin died, two high ranking officials were in negotiating idea of Jerusalem as two capitals, that of Israel and that of Palestine).

\(^{350}\) Id. (opining that Rabin felt he could expand his political base by "emphasizing Jerusalem as a purely Jewish city").

\(^{351}\) Id. (noting that PA is not allowed to have offices inside city limits of Jerusalem). See Kuttab, \textit{supra} note 339, at B5 ("such a move attempts to predetermine the outcome of the negotiations.").


\(^{353}\) See Quigley, \textit{supra} note 264, at 21 (noting Arafat declared Palestinian state to include West Bank and Gaza Strip).

\(^{354}\) Id.

\(^{355}\) See Dajani, \textit{supra} note 24, at 28 (explaining that when Netanyahu took power he asserted that there would be no independent Palestinian state).
dependent state inevitable.\textsuperscript{356} The outcome, however, must be one that is within international legal principles, or it will not be able to endure in the long run.\textsuperscript{357}

Some scholars believe, though, that a Palestinian state in the territories would threaten Israel with the presence or absence of national armed forces.\textsuperscript{358} Even if the Palestinian State was demilitarized, a threat to Israel still would exist because international enforcement mechanisms may not be adequate to hold Palestine to its word.\textsuperscript{359} Indeed, one scholar has gone so far as to submit that the creation of an independent state of Palestine would end Israel's right to physical survival.\textsuperscript{360}

Both sides must agree to compromise in order for the permanent status talks to succeed.\textsuperscript{361} Arafat wants all of the negotiations regarding matters set forth in the Oslo Accords to be completed before the beginning of the permanent status negotiations.\textsuperscript{362} The climax of the negotiations, however, will occur if Palestinians are not able to negotiate a permanent settlement agreement that would meet their minimum standards.\textsuperscript{363}

\begin{itemize}
\item \textsuperscript{356} See Dallal, supra note 88, at 50 (finding, though, that "the structure and functioning of the envisioned state . . . needs to be considered realistically and dispassionately."); see also Beres, supra note 197, at 278 (claiming that implementation of Oslo Accords would definitely lead to Palestinian state, which in turn would incite the Muslims to turn to more Jihad centered attitude, thus making them want to take more of Israel).
\item \textsuperscript{357} See Quigley, supra note 265, at 27 (stating that this will be difficult because Israel is intent on maintaining settlements).
\item \textsuperscript{359} See id. (enforcing their demilitarization would probably be problematic).
\item \textsuperscript{360} See Beres, supra note 210, at 330 (believing that this might even lead to nuclear war). "Israel—if confronted by a new state of Palestine—would be well advised to do everything possible to prevent the appearance of Arab or Iranian nuclear powers, including pertinent non-nuclear preemptions." \textit{Id.} at 322-23; Inafuku, \textit{supra} note 75, at 375-76. Ambassador Sabel, an Ambassador Designate of Israel to Canada, and Minister of Foreign Affairs, has said, however, that an arms race is not in Israel's interest and "[w]e are abiding by our position that we will not be the first in the Middle East to introduce nuclear weapons into the area." Inafuku, \textit{supra}.
\item \textsuperscript{361} See Weiner, \textit{supra} note 91, at 403 (reminding that it is far from unheard of for leaders in Middle East to be assassinated for compromising with other side).
\item \textsuperscript{362} Id. (wanting Israel not to have ability to use Oslo Accords as leveraging power in permanent status negotiations).
\item \textsuperscript{363} Id. at 430 (predicting, erroneously, that on May 5, 1999, Arafat would declare independent state regardless of circumstance that would likely cost Palestinians their international backing).
\end{itemize}
III. THE FAILURE OF ISRAEL AND THE P.L.O. TO SUCCESSFULLY IMPLEMENT OSLO I AND OSLO II DOES NOT BODE WELL FOR THE CHANCES OF A SUCCESSFUL OSLO III

The impasses that have occurred in the first two stages of the peace process do not bode well for peace in the Middle East. The first two Oslo Accords left aside those issues deemed the most difficult to implement.\textsuperscript{364} Since the difficult issues were tabled for the permanent status negotiations, Oslo I and Oslo II were meant to implement other, easier peace-building measures. Considering the failure of Oslo I and Oslo II to successfully accomplish goals such as curtailing propaganda and establishing land allocation, however, it does not appear that Oslo III will be successful either.

A. The Problem of Propaganda

As previously discussed, both sides have violated the Oslo Accords on numerous occasions. One violation, however, over which both sides have full control is propaganda.\textsuperscript{365} Propaganda invokes deep-seeded emotions that have developed over decades of war. In order for the people of the Middle East to believe that their leaders are behind the peace movement, however, the verbal attacks must stop. The peace process, begun in secret due to fears of how the peoples of both sides would react, has spawned various reactions. Rabin was assassinated by an Israeli who wanted to stall the peace process. Hundreds of innocent people have been harmed by terrorists, many of whom were willing to sacrifice their own life in the hopes of derailing the peace process.\textsuperscript{366} Propaganda fuels these setbacks.

With such high barriers to overcome, it is essential that the propaganda barrage end. The confidence-building measures undertaken in Oslo II were considerably undermined by Arafat’s simultaneous call for the destruction of the Israelis.\textsuperscript{367} In this

\begin{itemize}
\item \textsuperscript{364} See supra notes 259-66 and accompanying text (separating issues into those that are easier and harder to implement).
\item \textsuperscript{365} See supra notes 220-37, 250-51 and accompanying text (explaining propaganda includes speeches by the leaders as well as newspaper reports).
\item \textsuperscript{366} See supra notes 238-56 and accompanying text (noting terrorist attacks have occurred intermittently from period prior to Israel’s independence until present day).
\item \textsuperscript{367} See supra notes 170-74 and accompanying text (having impact of widening rift between people of both parties).
\end{itemize}
light, perhaps the fact that the Palestinians exceeded the deadline before finally amending their charter to eliminate the call for the destruction of Jews was the worst violation of all. Indeed, the message of Jihad, which is bolstered through the spread of propaganda, is still prevalent. Terrorism attacks continue through today.

B. The Problem of Land

Oslo III is supposed to be the culmination of the peace negotiations, granting statehood to Palestine in exchange for peace. The logistics of what land will comprise the new Palestinian state causes much concern. The West Bank and Gaza Strip are on opposite sides of Israel, necessitating the need for a secure road to run through the middle.\(^{368}\) This road could give Israel a large degree of control; if a conflict arose, the road could be cut off. Palestinians, therefore, must trust Israel enough to believe that the passage would never be blocked.

The strongest point of contention, however, concerns Jerusalem. Arafat has stated that he wants an independent Palestinian state with Jerusalem as the capital.\(^{369}\) There is no reason to believe, however, that Israel will relinquish control of any portion of Jerusalem, due to its considerable theological and historical significance to the Jewish people. The section of Jerusalem referred to as East Jerusalem contains the Western Wall, the holiest Jewish place. Every year at the traditional Passover seder, Jews pray, “Next year in Jerusalem,” signifying the Jewish belief that they are the chosen people to occupy the land of Israel. To Muslims, conversely, East Jerusalem, which holds the Dome of the Rock, is the only the third holiest place behind Mecca and Medina. Muslims pray facing Mecca, not Jerusalem. With this disparity in religious significance, chances are great that the two sides will reach an impasse during the negotiations for East Jerusalem. It is unrealistic to expect the parties to agree on the status of Jerusalem, when they have not even fulfilled the agreements promised earlier.

As previously stated, these impasses do not bode well for

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368. See supra notes 307-11 and accompanying text (explaining that road was negotiated for in Oslo II).
369. See supra notes 326-52 and accompanying text (explaining that Israeli leaders, conversely, have said they will never give up any part of Jerusalem).
peace in the Middle East. If the parties cannot agree on implement- ing initial peace-building measures, then there is little hope that those deemed more complex will come to fruition. Violations of the accords, especially those that curtail confidence-building measures such as propaganda, must stop immediately in order to move forward towards Oslo III.

CONCLUSION

The problems previously discussed, aside from those concerning an independent Palestinian state, were negotiated in Oslo I and Oslo II. The authors of the Oslo Accords created a step-by-step process to introduce peace to the Middle East. However, in many instances it seems as though leaders from both sides worked against the Oslo Accords. The stalled peace process needs to resume by creating Oslo III, without waiting for the outstanding issues of earlier Oslo Accords to be implemented. Oslo III should set forth those issues that Oslo II failed to implement, and incorporate them into the permanent status negotiations. These issues, however, should not be subject to negotiation, but simply on the timeline of objectives to satisfy. The sooner Oslo III is signed, the closer we will come to peace in the Middle East.