THE OSLO PEACE PROCESS – A VIEW FROM WITHIN*

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FOREWORD

The two sections presented below reflect the striking progress that was achieved between the signing of the Declaration of Principles on Interim Self-government Arrangements ("the DOP") in Washington on 13 September 1993 and the event that two years later signaled the translation of the principles included in the DOP into a vast array of detailed arrangements for an ongoing peace process – the signing on 28 September 1995 of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip ("the Interim Agreement"). Thus, the first section summarizes the Israeli interpretation of the concepts and guidelines set out in the seventeen articles of the relatively abstract DOP at a time when many of its provisions could have been interpreted in more than one way. In contrast, the second section describes the result of almost two years of negotiations – an Interim Agreement comprised of more than 300 pages, including the main body of the agreement, seven annexes and nine maps, which set out concrete provisions regarding all the myriad aspects of the peace process’ interim

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period. A comparison of the two sections shows that, with regard to most of the issues involved, the Israeli interpretation of those DOP provisions was accepted.

In the time that has passed since the writing of the second section, the movement towards full implementation of both agreements has continued, despite various setbacks and obstacles. Most significant among these obstacles was the series of suicide bomb attacks perpetrated by Hamas and the Islamic Jihad within Israel in February and March 1996, that led to the death of 58 Israelis. The tight closure imposed on the West Bank and the Gaza Strip by the Israeli Government in response to the attacks has only recently been eased, and its continuance has hindered the full implementation of much of the Protocol on Economic Relations set out as Annex V to the Interim Agreement.

The following is a brief summary of the steps taken by both parties in the implementation of some of the key provisions of the Interim Agreement:

I. **Redeployment of the IDF from the Populated Areas of the West Bank**

As called for in the Interim Agreement, the Israel Defense Force ("IDF") completed its redeployment from all populated parts of the West Bank, except for the city of Hebron, by 28 December 1995, 22 days before the Palestinian elections. The various stages of the redeployment took place without disturbances, except in the case of the 11 December redeployment from Nablus that was characterized by rioting and general public disorder. The pre-Christmas redeployment from the Bethlehem area was delayed for several days in order to allow the completion of the bypass road. Joint Patrols and Joint Mobile Units have been operating in Area B without incident, and the Palestinian Police has established itself in Areas A and B (except in Hebron), as called for in Annex I (the Protocol Concerning Redeployment and Security Arrangements). Furthermore, the Joint Security Coordination Committee has continued functioning successfully throughout the period, as have the District Coordination Offices that were established for the West Bank.
II. Palestinian elections, the establishment of the Palestinian Council and the Palestinian Executive Authority

The establishment of a democratically elected self-government, as outlined in Article II of the Interim Agreement and in Annex 2 (the Protocol Concerning Elections), has been one of the most successfully implemented aspects of the Interim Agreement. On 20 January 1996, elections were held for the 88 members of the Palestinian Council and for the Ra‘ees of the Executive Authority of the Council. A re-balloting was held on 31 January 1996 in two polling stations in the Gaza Strip constituency of Jabalya, upon orders from the Central Election Commission, after allegations were made of improprieties at the stations.

Yasser Arafat was elected Ra‘ees, having received 88 per cent of the vote. The newly elected Council was inaugurated when it held its first ceremonial meeting on 7 March 1996 in Gaza, at which time Ahmed Qurie (Abu Ala), who had headed the Palestinian delegation to the Interim Agreement negotiations, was elected as the Speaker of the Council. The members of the Executive Authority were sworn in on 9 May 1996.

III. The amendment of the PLO Covenant

On 24 April 1996 the PLO’s Palestinian National Council (the “PNC”) passed a resolution cancelling those provisions of the PLO Covenant calling for the destruction of the State of Israel. At the same time, the PNC assigned its legal committee the task of drafting a new covenant. Certain observers and commentators have charged that the text of the resolution voted on by the PNC did not clearly have the effect of amending the charter, but the letter sent by Chairman Arafat to the then Israeli Prime Minister Shimon Peres on 4 May 1996 stated that the covenant had been unequivocally amended. The Israeli Government accepted this statement and the accompanying translation from the Arabic of the approved resolution, as evidencing the PLO compliance with its obligation under Article 31(9) of the Interim Agreement. An identical letter was sent to Prime Minister Benjamin Netanyahu by Chairman Arafat on 24 July 1996.
IV. REDEPLOYMENT OF THE IDF IN THE CITY OF HEBRON AND THE ESTABLISHMENT OF A TEMPORARY INTERNATIONAL PRESENCE

The Interim Agreement called for the completion of the IDF redeployment from parts of the city of Hebron by six months after its signing (see Appendix I to Annex I of the Interim Agreement). Nevertheless, as of this writing, the redeployment has not taken place. The initial delay was a result of the series of suicide bomb attacks in February and March 1996, which led to a suspension of all Israeli-Palestinian talks, including those regarding the redeployment. On 12 May 1996, the parties agreed that the redeployment would take place in mid-June, but further delays occurred as a result of the timing of Israel’s elections. Prime Minister Netanyahu has recently announced that discussions regarding the redeployment are expected to be renewed by the end of August 1996.

The Interim Agreement also called for the establishment and introduction into Hebron of a Temporary International Presence in Hebron (the “TIPH”) after the Israeli redeployment, in order to facilitate the creation of a stable atmosphere (Article 7(10) of Annex I to the Interim Agreement). At the first delay in the redeployment, the parties agreed that, in order to mitigate some of the impact of the delay, the international observers would be invited to enter the city prior to the redeployment. Consequently, on 9 May 1996, the parties signed an agreement regarding the TIPH, pursuant to which an initial group of 50-60 Norwegian observers started functioning in Hebron. This agreement also stated that, upon the redeployment of the IDF forces in Hebron, the Norwegians would be joined by additional personnel of other nations, in accordance with a further agreement to be negotiated by the parties. In terms of its organization, functions and the privileges and immunities of its members, the TIPH thus established is closely modeled after the temporary international presence that operated in the city during the spring of 1994, following the Cave of the Patriarchs massacre on 25 February of that year.
V. Release of Prisoners

Article 2 and Annex VII of the Interim Agreement called for the release of several categories of Palestinian prisoners in three stages. The first two stages have been implemented, with the exception of the issue of the women prisoners who had been charged with murder. Under these provisions, all women prisoners, including those charged with murder, were to have been released in the first stage, that is upon the signing of the Interim Agreement. Three of these female prisoners were tried by military courts, while two were tried by regular Israeli civilian courts, and their release therefore required an official letter of commutation from the President of Israel. On 6 October 1995, President Ezer Weizmann announced that he would not commute these prisoners’ sentences. Shortly thereafter, the Military Commander of the Central Command, Major-General Ilan Biran, was ordered by the Prime Minister not to weigh the possibility of commuting the sentences of the three female prisoners charged with murder who had been tried by military courts.

In response, the other female prisoners, whose sentences had been commuted properly by the appropriate individuals, announced that they would not agree to be released until the women charged with murder were also released. The situation remained unchanged until 25 July 1996, when, after President Weizmann announced his decision to commute the sentences of the two women under the civilian courts’ jurisdiction and after the Supreme Court rejected a last minute petition challenging the President’s right to order the commutation, one of the prisoners was released, having agreed to sign a statement in which she affirmed that she would “refrain from future acts of terrorism”. It was expected that with these decisions, this issue would shortly be resolved entirely.

VI. Safe Passage

Negotiations regarding the Safe Passage Agreement, referred to in Article 10(2)a to Annex I (Protocol Concerning Redeployment and Security Arrangements) of the Interim Agreement, have been conducted since before the Interim Agreement was signed. The purpose of these negotiations was to develop arrangements for the implementation of the safe passage between the West Bank and the
Gaza Strip. As of this writing, these negotiations have entered their final stages.

VII. Final Status Talks

Article 5(2) of the DOP called for the beginning of talks on the permanent status arrangements to take place within two years after the withdrawal of IDF troops from the Gaza Strip and Jericho Area. Accordingly, the ceremonial opening of the final status negotiations took place on 5-6 May 1996. These opening talks were of a procedural nature, during which the parties agreed to establish a steering committee to discuss the basic principles of the negotiations to follow.

Conclusion

Despite the various setbacks and delays, and regardless of the protests and occasionally strident rhetoric from both sides, the process outlined in the DOP and the Interim Agreement has remained viable. Since the Israeli elections, both sides have pledged to continue the process, notwithstanding the tension and uncertainty that has naturally arisen as a result of the change in the Israeli government. The events of the past year have proven the remarkable strength and durability of the system created in these agreements, two characteristics that will no doubt be crucial to the success of the peace process in the years to come.
I. THE DECLARATION OF PRINCIPLES ON INTERIM SELF-GOVERNMENT ARRANGEMENTS: SOME LEGAL ASPECTS

The DOP comprises the following documents: (1) the text of the Declaration itself; (2) four annexes dealing, in turn, with elections, early withdrawal from the Gaza Strip and Jericho area, Israeli-Palestinian economic cooperation, and Israeli-Palestinian cooperation at the regional level; and (3) a series of Agreed Minutes amplifying various articles in the Declaration. These Agreed Minutes were signed separately by the parties, and according to Article 17 of the DOP, they constitute an “integral part” of the DOP.

The DOP is supplemented by an exchange of correspondence dated 9 September, 1993, confirming, among other things, the PLO recognition of Israel’s right to exist, renunciation of terror, an undertaking to amend the Palestinian Covenant, and Israel’s recognition of the PLO as the representative of the Palestinians.

Between them, these documents set out a framework for the arrangements to apply in the West Bank and Gaza Strip during a transitional period of five years until the implementation of permanent status arrangements.

The timetable envisaged by the DOP for the transitional period is based on that included in the Camp David Accord and subsequently adopted as a basis for the Madrid peace process. In Article 5, the DOP provides that a five-year “interim” or “transitional” period will commence on the withdrawal of Israeli forces from the Gaza Strip and Jericho area. By the start of the third year of this five-year period, negotiations will commence on the final status of the West Bank and Gaza.

The principles set out in the DOP cover a wide range of issues, which broadly fall into the following categories:
1. Arrangements to apply throughout the West Bank and Gaza Strip during the interim period, including arrangements for the holding of elections for a Palestinian Council.

2. Arrangements to apply in the Gaza Strip and Jericho area subsequent to an early withdrawal of Israeli forces implementing the “Gaza first” plan.

3. Arrangements for early empowerment, which constitutes a preparatory transfer of powers and responsibilities in agreed spheres to be implemented in the rest of the West Bank, concurrently with the early withdrawal from the Gaza Strip and Jericho area.

4. Permanent status arrangements.

As its title suggests, the DOP is not a comprehensive agreement, but rather a statement of agreed principles. In other words, it is not a self-executing document which purports to set out practical arrangements, but rather an “agreement to reach agreement”, which leaves the details to be negotiated between the parties. Thus, the DOP provides that separate agreements are to be negotiated between the parties with respect to the special arrangements for the Gaza Strip and Jericho area (Annex II, Article 1), the elections for the Council (Article 3 and Annex I), and the interim period arrangements (Article 7). In relation to a number of other areas, such as economic and regional cooperation, the DOP provides that special liaison committees will be established in order to develop joint programs (see, e.g., Articles 11 and 16). Although the practical details are left to be negotiated, the DOP nevertheless provides significant guidelines for these arrangements. The purpose of this article is to consider the main implications of the DOP in each of the areas outlined above.

1. The Interim Period

The DOP provides, in Article 7, that the agreement on the interim period to be negotiated by the parties (“the Interim Agreement”) will specify, among other things, the structure of the elected Council, and
the powers and responsibilities to be transferred by Israel to the Council.

Pursuant to Article 3 and Annex I, the parties will negotiate an agreement on the exact model and conditions of the elections. While the details of the elections and the Council will be negotiated in these agreements, the DOP sets out a number of principles to apply to these, as well as to other aspects of the interim period:

\[ a) \text{ Elections} \]

The DOP sets out the guiding principles that "direct, free and general political elections will be held for the Council under agreed supervision and international observation" (Article 3(1)).

Among the issues of contention in this regard is the extent to which Palestinians resident in East Jerusalem will be permitted to participate in the elections. During the negotiations, Israel agreed that such Palestinians would have the right to vote, but a Palestinian proposal that would have permitted these Palestinians to stand as candidates was not adopted.

The adopted text, in Annex I, provides that “Palestinians of Jerusalem who live there will have the right to participate in the election process, according to an agreement between the two sides”. Thus, the exact extent to which Palestinians from East Jerusalem will be able to participate in the elections is left to be resolved by the parties in the negotiations on the election agreement. In these negotiations, Israel will continue to oppose any participation of Palestinians of East Jerusalem as candidates in the elections.

Participation in the election process does not require that Palestinians will be able to cast their vote in Jerusalem itself; their votes may be cast at polling stations situated within the territories. Indeed, during the negotiations on the DOP, a Palestinian proposal stating that Palestinians of East Jerusalem would cast their votes in East Jerusalem was not adopted.
b) Source of Authority

On the establishment of the Council, in accordance with Article 7(5) of the DOP, the Israeli Civil Administration will be dissolved; the Israeli military government, on the other hand, will not be dissolved, but will simply withdraw from the West Bank and Gaza strip to Israel. In fact, the headquarters of the Regional Commanders of the West Bank and Gaza Strip are already situated within Israel, while only district offices are currently maintained in the areas.

The dissolution of the Israeli Civil Administration will have no impact on the status of the West Bank and Gaza Strip. The Civil Administration was created in the early 1980s as an organ of the Israeli military government in order to discharge the powers and responsibilities of the military government in civilian matters. It should be noted that prior to the establishment of the Civil Administration, the military government itself had been performing both civilian and non-civilian functions. Thus, with the dissolution of the Civil Administration, the military government will simply resume all the powers and responsibilities of the Civil Administration not transferred to the Palestinian Council. In this context, the fact that the military government in the West Bank and Gaza Strip will continue to exist is very significant. It emphasizes that, notwithstanding the transfer of a large portion of the powers and responsibilities currently exercised by Israel to Palestinian hands, the status of the West Bank and Gaza Strip will not be changed during the interim period. These areas will continue to be subject to military government. Similarly, this fact suggests that the Palestinian Council will not be independent or sovereign in nature, but rather will be legally subordinate to the authority of the military government. In other words, operating within Israel, the military government will continue to be the source of authority for the Palestinian Council and the powers and responsibilities exercised by it in the West Bank and Gaza Strip.

This provision resolves one of the ambiguities left open by the autonomy arrangements contained in the Camp David Accords. In these accords, which referred to the military government being "replaced" by the Palestinian self-governing authority, it was left
unclear as to where the source of authority lay, and in whom any residual powers would vest. The provisions of the DOP ensure that Israel, through its military government, shall continue to be the source of authority and, as discussed below, to retain any powers and responsibilities not specifically transferred to the Council.

c) Jurisdiction of the Council

Article 4 of the DOP provides that the jurisdiction of the Council will not cover “issues that will be negotiated in the permanent status negotiations”. A list of such permanent status issues is provided in the Agreed Minute to Article 4, which lists: Jerusalem, settlements, military locations and Israelis.

The formulation in Article 4 for excluding these issues from the Palestinian jurisdiction (“except for issues that will be negotiated in the permanent status negotiations”) was adopted because it effectively enabled the Palestinian delegation to agree to put aside their demands in relation to these issues during the transitional period and to claim that discussion of these issues has simply been postponed until a later date.

In addition, the Agreed Minute to Article 4 states that jurisdiction of the Council “will only apply with regard to the agreed powers, responsibilities, spheres and authorities transferred to it”. In other words, the Council will have no jurisdiction in relation to powers and responsibilities retained by Israel.

In this context, it should be noted that the wording proposed by the Palestinian side in the DOP negotiations, referring to the transfer to the Council of all the powers and responsibilities currently exercised by the Israel military government and the Civil Administration, was not adopted in the text. Instead, the DOP provides in Article 7 that the Council will only have specified powers and responsibilities to be detailed in the Interim Agreement. This provision represents, from Israel’s viewpoint, an advance on the Camp David arrangements, which left open the question whether or not all of the powers and responsibilities of the military government and Civil Administration would be transferred to the Palestinians.
This functional limitation is only one of the factors defining the jurisdiction of the Council. In fact, as described in the DOP, the jurisdiction of the Council is limited by three cumulative criteria:

1) **Territorial Jurisdiction**

Article 4 provides that “the jurisdiction of the Council will cover West Bank and Gaza Strip territory”. Significantly, by declining to adopt Palestinian proposals to include the word “all” or “the” before the phrase “West Bank and Gaza Strip”, the parties made it clear that they intended that the territorial jurisdiction of the Council will not necessarily cover the entire West Bank and Gaza Strip. The language of Article 4 thus follows the wording of UN Security Council Resolution 242 (1967) which deliberately omitted the word “the” or “all” before the word “territories” in the phrase: “withdrawal of Israeli armed forces from territories occupied in the recent conflict”. In both cases, the omission of the word “the” or “all” was deliberate and meant to leave for negotiation between the parties the extent to which the withdrawal (in the case of Resolution 242) or the Council’s jurisdiction (in the case of the DOP) would apply to the West Bank and Gaza Strip. On the basis of this provision, during the Interim Agreement negotiations Israel may seek to exclude from the Council’s territorial jurisdiction such areas as State lands or land privately owned by Jews that are located outside the Israeli settlements.

In addition, it is clear that the jurisdiction of the Council will not cover Israeli settlements and military locations which, as noted above, are defined by the Agreed Minute to Article 4 as permanent status issues. This list of exceptions is not necessarily exhaustive; indeed, the text of the Agreed Minutes to Article 4 suggest that they come in addition to the requirement that the extent of West Bank and Gaza Strip territory over which the Council has jurisdiction be defined through negotiations.
2) Personal Jurisdiction

The Council’s jurisdiction shall not include Israelis, who are excluded from the jurisdiction of the Council in the Agreed Minute to Article 4. Thus, Israelis will not be subject to laws legislated by the Council, to arrest or detention by Palestinian police or to the jurisdiction of the Palestinian courts. In this regard, the DOP makes no distinction between Israeli civilians and soldiers, or between Israeli residents of the West Bank and Gaza Strip and Israelis visiting from Israel. Israelis, without distinction, shall remain under exclusive Israeli jurisdiction whether they are in the settlements or military locations or anywhere else in the West Bank and Gaza.

3) Functional Jurisdiction

As noted above, the Agreed Minute to Article 4 limits the Council’s jurisdiction to those powers, responsibilities, spheres and authorities transferred to it. As a result, the Council’s jurisdiction shall not cover any powers and responsibilities not transferred to it. The DOP contains a number of specific issues in this category: external security, internal security and public order of Israelis and foreign relations. The parties may also agree on other matters to be excluded from the Council’s jurisdiction. Thus, for example, if the parties agree that powers and responsibilities relating to the electromagnetic sphere in the West Bank and Gaza Strip shall not be transferred to the Council, then the issuing of broadcasting licenses to Palestinians shall continue to be an Israeli responsibility, even where the application relates to broadcasting stations to be located within areas under Palestinian territorial jurisdiction. Similarly, if it is agreed that the administration of Jewish Holy Places, or of State lands, is not to be transferred, then although they may fall within Palestinian territorial jurisdiction, the administration of such places will continue to be an Israeli responsibility.

The DOP thus resolves one of the key issues left open by the Camp David Accords – the question of whether, as the Palestinians claimed, their jurisdiction would be territorial, covering the entire West Bank
and Gaza area, or, as Israel claimed, personal, covering only Palestinian residents of the territory. The DOP resolves this conflict by providing that the jurisdiction of the Council shall be limited to a specific territory. Within that territory its jurisdiction shall only extend to non-Israelis, situated outside the Israeli settlements and military locations, and will apply only in spheres that have been specifically transferred to the Council.

d) Israeli Jurisdiction

As noted above, according to the DOP, on the inauguration of the Council, the Civil Administration will be dissolved and the military government shall be withdrawn (Article 7(5)). The Agreed Minute to this Article provides that the “withdrawal of the military government will not prevent Israel from exercising the powers and responsibilities not transferred to the Council”. This provision has three important implications: First, it emphasizes the principle that not all of the powers and responsibilities currently exercised by Israel will be transferred to the Council. Second, it stresses that powers and responsibilities not transferred to the Council shall be exercised by Israel. In this context, it renders untenable the suggestion that powers not transferred to the Palestinian Council will not necessarily rest with Israel, but may be suspended for the duration of the interim period.

Third, it indicates that Israel retains the residual powers in the West Bank and Gaza Strip. Thus, where no provision has been made in relation to a specific area of authority, that area shall be retained by Israel. Accordingly, Israel’s jurisdiction in the West Bank and Gaza Strip shall encompass the following:

1. Israelis, wherever they may be;
2. the Israeli settlements;
3. military locations; and
4. any functional issue that has not been transferred to the Palestinians.
e) Legislative Powers

The same general principles outlined above in relation to the jurisdiction of the Council will apply in relation to its legislative powers. Article 9 of the DOP provides that the Council will be empowered to legislate “within all authorities transferred to it”. Accordingly, the Council shall not be authorized to legislate in fields that have not been transferred to its authority. Legislative powers in such areas will, as explained above, remain with Israel.

Moreover, even within the spheres of authority transferred to the Council, the power to legislate must be exercised “in accordance with the Interim Agreement”. Thus, the Interim Agreement may limit the exercise of this power, for example, by requiring Israeli affirmation for legislation promulgated by the Council in order to enter into force.

It should also be noted that the power to legislate is vested in the Council itself. Israel rejected the proposal that legislative powers be vested in an independent legislator, in order to avoid the possibility that such a separation of powers might be construed as an attribute of independence.

As regards existing legislation, Article 9(2) provides that laws and military orders in spheres not transferred to the Council shall be reviewed jointly by the parties. The provision emphasizes that the legislation promulgated by the military government shall remain in force in the territories in relation to areas of authority that it retains, although Israel is prepared to review such legislation together with the Council and to consider its suggestions.

f) Security in the Interim Period

The security principles contained in the DOP provide more clarity than those included in the Camp David Accords, which provided only that the parties would negotiate an agreement including “arrangements for assuring internal and external security and public order”, but which gave no indication of which party would be responsible for these spheres.
The DOP (in Article 8) establishes the following principles in relation to security and public order:

1. The Council will be responsible, by means of a strong police force, for guaranteeing "public order and internal security for the Palestinians of the West Bank and Gaza Strip".

From the mandate of the Palestinian police force, as expressed in Article 8, it is clear that it is intended to be responsible only for the protection of Palestinians, and not of Israelis, who will remain under Israeli responsibility.

Furthermore, from the Agreed Minute to Article 8, which refers to the transfer of powers and responsibilities to the Palestinian police being "accomplished in a phased manner", it is evident that this police force will not receive all of its powers immediately on the implementation of the Interim Agreement, but rather that the transfer of powers to the force will take place in stages. The number of stages, the scope of powers and responsibilities to be transferred at each stage, and the extent of the intervals between these stages, are matters to be negotiated and agreed by the parties.

2. Israel shall remain responsible for defence against external threats. The DOP does not place any restrictions on Israel’s responsibility for defence against external threats, nor is the phrase "external threat" limited in any way. The phrase thus covers both strategic threats and low-intensity threats such as terrorist infiltrations. Israel shall be entitled to take all necessary measures to prevent and defend against such hostile acts coming from outside the borders of the West Bank and Gaza Strip, as well as from the sea or the air.

The phrase used in Article 8 that "Israel will continue to carry..." is significant in that it implies a continuation of the current arrangements while the words "... the responsibility" indicate that the responsibility is indivisible and rests with Israel alone.

3. Israel shall remain responsible for "the overall security of Israelis for the purpose of safeguarding their internal security and public order". Again in this context, the phrase "Israel will continue to carry..." indicates a continuation of the current arrangements.
Additionally, the word “overall” underlines the fact that the security of Israelis is to be understood in the widest possible sense.

These principles obviously needed significant amplification in the Interim Agreement. Among the most sensitive of the security issues which needed to be addressed in this Agreement was the treatment of criminal offenders, Israeli and Palestinian, from the moment of their arrest until the completion of legal proceedings against them. Broadly, there are four main scenarios:

1. An Israeli commits an offence against an Israeli.
2. A Palestinian commits an offence against a Palestinian.
3. An Israeli commits an offence against a Palestinian.
4. A Palestinian commits an offence against an Israeli.

The DOP indicates that where any criminal or security incident occurs in an Israeli settlement or military location, it will fall within Israeli responsibility, even if both the offender and the victim are Palestinian. Where the above scenarios take place in areas under Palestinian territorial jurisdiction, some further thought is required.

With regard to the first two scenarios, no particular difficulty arises; it seems clear that where an Israeli commits an offence against an Israeli, the handling of the matter will be an exclusively Israeli responsibility. Similarly, where the offence is committed by and against a Palestinian, the responsibility will be exclusively that of the Council.

The third scenario, where an Israeli commits an offence against a Palestinian, is more complex. The Palestinian police is responsible for the security and public order of Palestinians and it may therefore be argued that the incident should fall within its responsibility. However, the DOP makes it clear that the jurisdiction of the Council does not extend to Israelis, and therefore the handling of the matter – at least as far as the Israeli offender is concerned – remains an Israeli responsibility.

The fourth scenario, where a Palestinian commits an offence against an Israeli, raises the question whether Israel has authority, in relation to an event that takes place in territory under Palestinian jurisdiction, to arrest a Palestinian offender, or investigate him and bring him to trial before an Israeli court.
The DOP would seem to indicate that, where the victim of the offence is an Israeli, Israel does have this authority. Israel is entrusted with responsibility in relation to the security of Israelis by Article 8, which states that Israel will “continue to carry the responsibility ... for overall security of Israelis”. As noted above, the phrase “continue to carry” implies a continuation of the current arrangements in this regard, while the word “overall” indicates that the responsibility is to be understood in the broadest sense. Moreover, as we have seen, the Agreed Minute to Article 4 limits the Council’s jurisdiction to those powers and responsibilities specifically transferred to it. Since the responsibility for internal security and public order of Israelis remains with Israel, the Council has no jurisdiction in the matter.

g) Redeployment of Israeli Forces

Article 13 of the DOP provides that “after the entry into force of the Declaration of Principles, and not later than the eve of the elections for the Council, a redeployment of Israeli military forces in the West Bank and Gaza Strip will take place”.

This redeployment is different in nature from the “withdrawal” from the Gaza Strip and Jericho area referred to in Article 14 and described below. Rather than requiring a removal of any forces from the territories, redeployment is intended to ensure a redistribution of forces within the territories, having regard to the general principle stated in Article 13(2) that “military forces should be redeployed outside populated areas”; that the redeployment is not intended to involve the transfer of forces outside the territories is also underscored by Article 13(3) which refers to redeployment “to specified locations”. Locations within Israel itself would not need to be specified.

While Article 13 of the DOP provides that a redeployment of forces is due to take place prior to the eve of elections for the Council, the DOP does not suggest that the process of redeployment be completed by that date. Rather, Article 13(3) provides that “further redeployment to specified locations will be gradually implemented commensurate with the assumption of responsibility for public order and internal security by the Palestinian police”. Thus, the process of redeployment
is intended to continue through the interim period, its pace being dictated by the extent to which the assumption of security responsibilities by the Palestinian police makes such redeployment possible.

**b) Displaced Persons**

Article 12 of the DOP, dealing with arrangements for liaison and cooperation between Israel, the Council, Jordan and Egypt, provides that these arrangements will include the constitution of “a Continuing Committee that will decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza Strip in 1967, together with necessary measures to prevent disruption and disorder”.

This wording, taken directly from the Camp David Accords, is significant in that it indicates that the modalities for the admission of displaced persons can only be implemented along with those measures necessary to prevent disruption and disorder. It should also be noted that the Continuing Committee is only intended to deal with those persons displaced from the West Bank and Gaza Strip in 1967. The question of the refugees arising in 1948 is not to be considered by this committee, but rather is designated by Article 5 as an issue to be included in the permanent status negotiations. In that context, it should be noted that Article 5 does not limit the issue to be discussed to Arab refugees; the permanent status negotiations may equally focus on the large number of Jews who were forced to flee to Israel from neighbouring Arab States. Nor does Article 5 give any indication as to the manner in which the refugee issue should be resolved. As with all issues to be included in the permanent status negotiations, all options remain open.

**i) Resolution of Disputes**

Article 15 deals with the procedure to be followed in order to resolve disputes arising out of the application or implementation of agreements during the interim period.
Article 15(1) provides that such disputes “shall be resolved by negotiations though the Joint Liaison Committee”. This committee, established under Article 10, is intended “to deal with issues requiring coordination, other issues of common interest and disputes”.

Where the Joint Liaison Committee is unsuccessful in resolving the dispute, there is no mandatory next step. Article 15(2) provides that “disputes which cannot be settled by negotiation may be resolved by a mechanism of conciliation to be agreed between the parties”. The use of the phrase “may be agreed between the parties” clearly indicates that this is a voluntary proceeding, while the stipulation that the method of conciliation is “to be agreed between the parties” indicates that there must be agreement between the parties both as to the need for conciliation and as to the appropriate forum and procedure.

Where conciliation fails, Article 15 provides that “the parties may agree to submit to arbitration” the outstanding dispute. Once again, the word “may” indicates a voluntary proceeding. Similarly, from the second part of the sub-article, which provides for the establishment of an Arbitration Committee “upon the agreement of both parties”, it is clear that there must be agreement between the parties both as to the need for arbitration and as to the appropriate forum and procedure.

Finally, it should be noted that the mechanisms proposed by Article 15 relate only to disputes “relating to the interim period”. Disputes relating to the permanent status arrangements shall be resolved only through negotiations. This principle is stated in the letter of the Chairman of the PLO to the Prime Minister of Israel, dated 9 September, 1993, which states that “all outstanding issues relating to permanent status will be resolved through negotiations”.

2. THE GAZA-JERICHO ARRANGEMENTS

It appears that the idea that separate arrangements should be instituted in the Gaza Strip and Jericho area is based on the common belief that an agreement in these areas might be easier than in the rest of the West Bank. This, because problems relating to such issues as security, water
resources, Jewish population and holy places in these areas are less complex.

The agreement of the Palestinians to discuss a transfer of powers in a specified part of the territories represents a significant change from their previous stance of “all or nothing”. It seems that they agreed to such an arrangement because Israel agreed to transfer more powers in these areas, and transfer them more quickly, than in the rest of the territories.

Negotiations on the special arrangements to apply in the Gaza Strip and Jericho area, including the early withdrawal of Israeli forces from these areas, began immediately on the entry into force of the DOP. As indicated in Annex II, the aim of these negotiations was to conclude and sign an agreement on the Gaza-Jericho arrangements within two months of the entry into force of the DOP (i.e., by 13 October 1993), with the early withdrawal of Israeli forces being completed within four months from the signing of this agreement (i.e., by 13 April 1994). However, the two-month target for concluding an agreement was not accomplished, and the four-month period for completing the withdrawal would therefore not end on 13 April 1994, but rather four months from the date such an agreement is signed.

The DOP addresses the Gaza-Jericho agreement in Article 14 and in Annex II, together with the Agreed Minute to that Annex. Among the subjects to be covered in the Gaza-Jericho agreement are the following:

a) Withdrawal of Israeli Forces

Article 14 provides that “Israel will withdraw from the Gaza Strip and Jericho area, as detailed in ... Annex II”. Annex II provides that the withdrawal of Israeli forces is due to commence immediately with the signing of the Gaza-Jericho agreement. Unlike the “redeployment” due to take place in the rest of the territories, this withdrawal will involve the removal of forces from these areas, though not all of the Israeli forces will be withdrawn. Indeed, a Palestinian proposal to use the phrase “withdrawal of all Israeli military forces” in Annex II(2) was rejected. Moreover, that some Israeli forces will continue to be present
in the Gaza Strip and Jericho area is clear from a number of other provisions of the DOP:

1. The Agreed Minute to Annex II provides that, even after the withdrawal of Israeli military forces, “Israel will continue to be responsible for external security, and for internal security and public order of settlements and Israelis.” It is evident therefore that those Israeli forces required to fulfil this responsibility will remain in the Gaza Strip and Jericho area.

2. The Agreed Minute to Annex II also provides that “Israeli military forces ... may continue to use roads freely within the Gaza Strip and the Jericho area.” Clearly, those military forces making free use of the roads in these areas will not have been withdrawn.

3. Article 13 of the DOP, dealing with the redeployment of forces in the West Bank and Gaza Strip on the eve of the elections, states that this redeployment is to take place “in addition to withdrawal of forces carried out in accordance with Article 14”. Since the withdrawal of Israeli forces from the Gaza Strip and Jericho area is due to take place before the elections, it follows that the DOP envisages that, subsequent to the withdrawal, there must be some remaining forces in those areas and it is these which will be redeployed. As noted above, the principle guiding this redeployment is not that military forces be removed from these areas, but that they “should be redeployed outside populated areas” (Article 13(2)).

b) Jericho Area

While there is little difficulty ascertaining the extent of the area known as the Gaza Strip, the size of the Jericho area has been the subject of some debate. In this context, it should be noted that in the negotiations leading to the signing of the DOP, Jericho was always regarded by the parties as a limited and symbolic addition to the “Gaza first” plan. Moreover, the reason why Jericho in particular was found acceptable was precisely because no Jewish settlements were located in the immediate area of the city. In line with the above, a Palestinian
suggestion to refer to the former Jordanian province of Jericho was rejected. In the course of negotiations on the DOP, however, Israel agreed to consider the inclusion of two adjacent refugee camps – Aquabat Jabber and Ein El Sultan – which led to the use of the term “Jericho area” instead of “Jericho city”.

c) *Establishment of a Palestinian Authority*

Annex II of the DOP provides that the powers and responsibilities transferred by Israel in these areas will be exercised by a Palestinian authority. This will be an appointed body. Since the early withdrawal from the Gaza Strip and Jericho area will take place before the elections, the offices of the Palestinian authority will be located in the Gaza Strip and Jericho area (Annex II, Article 5). A number of limitations are placed on the scope of the powers and responsibilities of this Palestinian authority. In particular, Annex II, Article 3(b) provides that it will have no powers or responsibilities in relation to “external security settlements, Israelis, foreign relations, and other mutually agreed matters”. Moreover, unlike the elected Council, there is no reference in the DOP to the Palestinian authority in the Gaza Strip and Jericho area having legislative powers. In practice, however, Israel has indicated its willingness to transfer legislative powers to the Palestinian authority within its jurisdiction, in order to enable it to fulfill its functions effectively. In exercising these functions, the jurisdiction of the Palestinian authority shall also be subject to the same limitations on territorial, personal and functional jurisdiction as the Council, contained in the Agreed Minute to Article 4 and described above. This principle is explicitly stated in Section A of the Agreed Minutes, which provides:

"Any powers and responsibilities transferred to the Palestinians ... prior to the inauguration of the Council will be subject to the same principles pertaining to Article 4, as set out in these Agreed Minutes below."

d) Security and Public Order

In order to fulfill the Palestinian responsibility for internal security and public order, Annex II provides for the establishment of a Palestinian police force. At the same time, Annex II and the Agreed Minute to this Annex make it clear that this police force will have no authority in relation to external security, nor in relation to internal security and public order of settlements and Israelis. All of these will remain areas of Israeli responsibility. As noted above, the withdrawal of Israeli forces from the Gaza Strip and Jericho area cannot derogate from these responsibilities.

The existence of concurrent Israeli and Palestinian security responsibilities will, no doubt, give rise to many practical complexities. Thus, Annex II provided that a joint Coordination and Cooperation Committee for mutual security purposes will be established (Article 3 (e)). This committee will coordinate the allocation of security responsibilities, and serve as the mechanism for cooperation in matters of mutual security concern.

e) Safe Passage

Article 3(g) of Annex II provides that the Gaza-Jericho agreement will contain arrangements for “a safe passage for persons and transportation between the Gaza Strip and Jericho area”. The use of the word “safe passage” (as opposed to the Palestinian proposal “free passage”) is significant, since it indicates that Israel’s obligation is limited to ensuring the security of the passage.

There is nothing in the DOP to support the suggestion that an “extra-territorial corridor” is envisaged. In fact, the phrase “safe passage for persons and transportation” indicates that a personal rather than territorial right is envisaged. In addition, it would be hard to sustain an argument for Palestinian jurisdiction when such jurisdiction, under Article 4, only extends to “West Bank and Gaza territory”. Indeed, Israel has proposed that the implementation of its obligation to ensure safe passage be carried out though the use of not one, but a number of roads crossing Israel.
f) Passage between Gaza and Egypt and between Jericho and Jordan

The Gaza-Jericho agreement will also include arrangements for coordination regarding passages between Gaza and Egypt and between Jericho and Jordan, as provided in Annex II, Article 4. The arrangements to be agreed in this regard must be consistent with Israel’s responsibilities for foreign relations and external security. Such issues as entry of foreign nationals, visas, passports, etc., are essential aspects of foreign relations, while control of borders is an integral part of external security. It would make no sense for Israel to retain control along the length of the borders for security purposes, while at the same time not having control over persons passing through the border crossings.

It should also be noted that in Article 5 of the DOP, the issue of borders is listed among the issues to be included in the final status negotiations, and that the issue is not to be determined in the interim period.

g) Status of Gaza Strip and Jericho Area

During the interim period, the status of the Gaza Strip and Jericho area will be identical to that of the West Bank. This principle is emphasized in Article 4 of the DOP, which states:

“The two sides view the West Bank and the Gaza Strip as a single territorial unit, whose integrity will be preserved during the interim period.”

In addition, Annex II provides that the status of the Gaza Strip and Jericho area will “continue to be an integral part of the West Bank and Gaza Strip, and will not be changed in the interim period” (Annex II, Article 6). It follows that, as in the case of the West Bank, the status of the Gaza Strip and Jericho area will continue to be that of areas subject to military government, with Israel remaining the source of authority therein (see Section 1(b) of this Article, above).

Two additional important principles are enshrined in Article 6 of Annex II: First, any attempt made by the parties to change the status of
the Gaza Strip and Jericho area during the interim period will have no effect. Second, any such attempt would be clear breach of the terms of the DOP, which may be considered a material breach and a ground for terminating the agreement.

3. EARLY EMPOWERMENT

Alongside the implementation of special arrangements in the Gaza Strip and Jericho area, Article 6 of the DOP provides for a preparatory transfer of powers and responsibilities with regard to five specific spheres in the rest of the West Bank. These powers and responsibilities will be transferred from the Israel military government and the Civil Administration to “the authorized Palestinians for this task”. The Agreed Minute to this Article indicates that these individuals are to be appointed by the Palestinian side, and their names notified to Israel.

The transfer of powers and responsibilities is due to commence on the completion of the withdrawal from the Gaza Strip and Jericho area. In particular, Article 6(2) provides that, immediately after the withdrawal, authority will be transferred to the Palestinians in the spheres of education and culture, health, social welfare, direct taxation and tourism.

Other than these transferred areas of authority, the Israeli military government and the Civil Administration will continue to fulfill all of their existing functions pending the inauguration of the Council, though, as noted in Article 6(2), the transfer of additional powers and responsibilities may be negotiated between the parties.

4. THE PERMANENT STATUS NEGOTIATIONS

Article 5(2) provides that permanent status negotiations are to commence “as soon as possible, but not later than the beginning of the third year of the interim period”. This is with a view to implementing the permanent status arrangements at the conclusion of the five-year transitional period.
Unlike the interim arrangements, for which the DOP gives extensive guidelines, the DOP is conspicuously silent about the form the permanent status arrangements will take. The list of issues provided in Article 5(3) to be included in the permanent status negotiations ("Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors, and other issues of common interest") is not inclusive. Neither the inclusion of an issue in the list contained in Article 5(3), nor its non-inclusion, should be taken as any indication of the outcome of the permanent status negotiations. In fact, the principle that all options should be left open is explicitly stated in Article 5(4):

"The two parties agree that the outcome of the permanent status negotiations should not be prejudiced or preempted by agreements reached for the interim period."

While the permanent status negotiations are not to be influenced by agreements for the interim period, they will still be subject to the principles which form the basis of the current peace process. Thus, Article 1 restates the fact that the permanent status settlement shall be based on Security Council Resolutions 242 and 338 (although Resolution 242, as noted above, is subject to differing interpretations), and the Preamble reflects the letter of invitation to the Madrid peace conference in referring to the attempt to "achieve a just, lasting and comprehensive peace settlement."

Conclusion

In conclusion, the DOP does not underestimate the practical complexities involved in negotiating and implementing the arrangements it envisages. But, as stated in its Preamble, it is predicated on the conviction that "it is time to put an end to decades of confrontation and conflict". It is to be hoped that this conviction expressed in the DOP will distill the principles into practicalities and help bring to the people of the region, in President Clinton's words: "the quiet miracle of a normal life."
II. THE WEST BANK AND GAZA STRIP: PHASE TWO

On 28 September 1995, Israel and the PLO signed the Interim Agreement on the West Bank and the Gaza Strip in Washington, DC ("the Interim Agreement"). Broadly, this agreement sets out to extend Palestinian self-government arrangements, which formerly covered only the Gaza Strip and the Jericho Area, throughout the West Bank. The Interim Agreement contains detailed arrangements for the election of a self-government authority – the Palestinian Council, and provides for the transfer of powers and responsibilities to the Council from the Israeli military government and its Civil Administration. The Interim Agreement also contains extensive security arrangements, including arrangements for the redeployment of Israeli military forces in the West Bank. In addition, the agreement regulates the relations between Israel and the Palestinian Council in legal and economic matters, and establishes a framework for encouraging programmes of cooperation between the two sides.

The Interim Agreement constitutes the third out of four stages of implementation established by the Declaration of Principles on Interim Self-Government Arrangements signed in Washington, DC on 13 September 1993 ("the DOP"). The DOP sets out the framework and principles to govern Israeli-Palestinian relations during a five-year transitional period until the implementation of permanent status arrangements. This framework seeks to bring about a permanent change in the relations between Israel and the Palestinians. In the words of the Preamble to the Interim Agreement, Israel and the PLO (which signed the agreement as the representative of the Palestinian people) are determined "to put an end to decades of confrontation and to live in peaceful coexistence, mutual dignity and security". They also reaffirm "their desire to achieve a just, lasting and comprehensive peace settlement and historic reconciliation". Finally, they recognize that "the
peace process ... as well as the new relationship established between the two Parties ... are irreversible”. As detailed below, the DOP envisages the development of this process in four stages, of increasing complexity and sensitivity:

1. *Gaza-Jericho Arrangements*

The first stage of implementation of the DOP was the Agreement on the Gaza Strip and the Jericho Area, signed in Cairo on 4 May 1994 (“the Gaza-Jericho Agreement”). This agreement gave effect to the “Gaza first” approach of the DOP by implementing the DOP provisions dealing with the withdrawal of Israeli military forces from the Gaza Strip and the Jericho Area and the transfer of powers from the Israeli military government and its Civil Administration to a Palestinian Authority. Significantly, because this first stage occurred before the Palestinian elections, the members of the Authority were not elected but rather appointed by the PLO with Israeli approval.

2. *Preparatory Transfer of Powers and Responsibilities*

With a view to avoiding an unbalanced situation in which self-government arrangements were in effect in the Gaza Strip and the Jericho Area, while the rest of the West Bank continued to be placed under military government in its fullest scope, the DOP called for “Early Empowerment” arrangements in the West Bank as the second stage of implementation of the DOP. In other words, the DOP provided that some civil powers and responsibilities would be transferred to the Palestinians throughout the West Bank, before the entry into force of the Interim Agreement. Accordingly, on 29 August 1994, Israel and the PLO signed the Agreement on the Preparatory Transfer of Powers and Responsibilities, which provided for the transfer of six civil spheres to the Palestinian Authority. A second agreement of a similar nature - the Protocol on Further Transfer of Powers and Responsibilities, signed on 27 August 1995 – provided for the transfer of an additional eight spheres.
3. The Interim Agreement

As noted above, the Interim Agreement, being the third stage of implementation of the DOP, provides for the establishment of an elected Palestinian Council and for the redeployment of Israeli forces throughout the West Bank. The arrangements contained in this agreement are to remain in force throughout the five-year transitional period which began on the date of entry into force of the Gaza-Jericho Agreement (that is, on 4 May 1994) and which will be completed by 4 May 1999. These arrangements incorporate or supersede all of the provisions contained in the three earlier agreements described above. Under the Interim Agreement, the arrangements established for the Gaza Strip by the Gaza-Jericho Agreement were generally left unchanged, except for the modifications dictated by the experience gained in the implementation of the Gaza-Jericho Agreement. By contrast, the arrangements pertaining to the Jericho Area were replaced by the new arrangements implemented throughout the West Bank. Authority with regard to the civil spheres transferred to the Palestinians under the preparatory transfer arrangements was assumed by the Council as part of its assumption of powers and responsibilities under the Interim Agreement.

4. Permanent Status Arrangements

Article 5 of the DOP provided that negotiations on permanent status issues are to commence not later than the third year of the interim period. The Interim Agreement concretizes this date as 4 May 1996 (Article 31(5)). The permanent status arrangements to be concluded through these negotiations are to be implemented at the conclusion of the five-year transitional period. A list of some of the issues to be addressed in the permanent status negotiations is provided in Article 5(3) of the DOP (“Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors and other issues of common interest”). The DOP envisioned the permanent status agreement to be the fourth (and last) stage of
implementation, bringing about full peace and reconciliation between Israelis and Palestinians.

A. General Structure of the Agreement

The Interim Agreement comprises over 300 pages and consists of the main body of the agreement and seven annexes, which deal with the following matters: redeployment and security arrangements, elections, civil affairs (transfer of civil authority), legal matters, economic relations, Israeli-Palestinian cooperation, and release of Palestinian prisoners and detainees. Attached to the agreement are nine maps delineating such matters as the areas of deployment of the Israel Defense Forces, the deployment of Palestinian Police, the security arrangements, etc.

The agreement was witnessed and countersigned by the heads of States, foreign ministers or representatives of the United States, the Russian Federation, Egypt, Jordan, Norway and the European Union.

B. Nature of the Interim Arrangements

1. Source of Authority

The nature of the regime established in the West Bank and the Gaza Strip for the duration of the transitional period is that of a Palestinian autonomy under the supreme authority of the Israeli military government. As detailed below, in line with these fundamental principles, Israel will continue to be responsible, among other things, for the external security as well as the external relations of the West Bank and the Gaza Strip. Significantly, lack of authority in these two spheres is a well-established indication of autonomous regimes. That the Israeli military government will continue to exist is stated in Article 1(5) of the Interim Agreement, which provides:

After the inauguration of the Council, the Civil Administration in the West Bank will be dissolved, and the Israeli military government shall be withdrawn. The withdrawal of the military government shall not
prevent it from exercising the powers and responsibilities not transferred to the Council.

It follows that, unlike the Civil Administration, the military government does not dissolve. Instead, it simply withdraws physically from its former location, but continues to exist elsewhere as the source of authority for the Palestinian Council and the powers and responsibilities exercised in the West Bank and the Gaza Strip. The fact that the military government continues in existence and retains necessary authority to exercise powers and responsibilities not transferred to the Council, is stated explicitly in the Interim Agreement (Article 17(4)):

a. Israel, through its military government, has the authority over areas that are not under the territorial jurisdiction of the Council, powers and responsibilities not transferred to the Council and Israelis.

To this end, the Israeli military government shall retain the necessary legislative, judicial and executive powers and responsibilities, in accordance with international law. This provision shall not derogate from Israel’s applicable legislation over Israelis in personam.

Since the military government remains the source of authority in the areas, as with the previous agreements reached between Israel and the Palestinians, the military commanders of the Israel Defence Forces in the West Bank and the Gaza Strip issued proclamations concerning the implementation of the Interim Agreement, whereby they incorporated the provisions of the agreement into the domestic law.

2. Residual Powers

The provisions of the Interim Agreement quoted above also resolve the issue of where residual powers are vested, that is, they are retained by Israel. In addition, Article 1(1) of the Interim Agreement states that “Israel shall continue to exercise powers and responsibilities not so transferred [to the Council]”. It follows that, if the agreement is silent on the question of where a particular power vests, then that power is
retained by Israel. It is noteworthy that the possession of residual powers is normally an indicia of being the source of authority.

3. The Status of the West Bank and the Gaza Strip

The Interim Agreement states that the “status of [the West Bank and the Gaza Strip] will be preserved during the interim period” (Article 31(8)). Moreover, the agreement contains a clear undertaking that “[n]either side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations” (Article 31(7)).

These provisions prohibit both sides from taking any unilateral step designed to change the status of the West Bank and the Gaza Strip which, as elaborated above, is a status of Palestinian autonomous areas under the supreme authority of an Israeli military government.

Since the status of the West Bank and the Gaza Strip is one of the fundamental elements of the Interim Agreement, one implication of this prohibition is that any attempt made by either party to change this status (such as by declaring an independent Palestinian state or by annexing the areas of Israel) may be considered a material breach and a ground for terminating the agreement.

4. Interim Arrangements do not Prejudice Permanent Status

The arrangements included in the Interim Agreement are, as the name of the agreement suggests, interim arrangements only: they are not in any way intended to influence the outcome of the permanent status negotiations. In other words, in the upcoming permanent status negotiations, no party may be barred from raising a claim or argument regarding the permanent status merely because that party had agreed in the Interim Agreement that a different arrangement be implemented during the interim period. This principle is stated clearly in the DOP, and is restated in Article 31(6) of the Interim Agreement, which provides:
Nothing in this Agreement shall prejudice or preempt the outcome of the negotiations on permanent status to be conducted pursuant to the DOP. Neither Party shall be deemed, by virtue of having entered into this Agreement, to have renounced or waived any of its existing rights, claims or positions.

C. Elections

1. The Electoral Process

Unlike the Palestinian Authority appointed under the Gaza-Jericho Agreement, the Palestinian Council established pursuant to the Interim Agreement is an elected body. Israel recognized the importance of establishing a democratic and accountable system of self-government in the West Bank and the Gaza Strip. Accordingly, the provisions of Article 3 of the DOP, which call for “direct, free and general political elections” in order that the Palestinians of the West Bank and the Gaza Strip may govern themselves “according to democratic principles”, are in Annex II of the Interim Agreement translated into detailed provisions ensuring a free and democratic process. In addition, going beyond the requirements of the provisions of the DOP, Israel agreed to the holding of separate and simultaneous elections for the Council and for the position of the Chairman (or “Ra’ees” in Arabic) of the Executive Authority of the Council (Annex II, Article 3). Throughout the negotiations on the elections, Israel was mindful of the fact that the elections are Palestinian elections. Accordingly, Israel was prepared to leave all issues relating exclusively to the conduct of the electoral process to be decided by the Palestinian side, expressing its concerns only with regard to such fundamental issues as the maintenance of security during the electoral process. A further expression of Israel’s willingness to be seen not to interfere with the electoral process are the provisions of the agreement calling for a redeployment of Israeli forces from the Palestinian populated areas of the West Bank on the eve of the elections (see below).
2. The Right to Vote and Be a Candidate

The Interim Agreement provides that the right to vote will be universal, regardless of sex, race, religion, opinion, social origin, education or property status. Accordingly, all Palestinians of the West Bank and the Gaza Strip who are registered in the population register as residents of these areas and are over the age of 18 on the date of the elections are entitled to vote, unless disqualified by the Palestinian judicial decision (Annex II, Article 2). Any person registered to vote in the elections, and who meets the age criteria as set by the Palestinian Elections Law, may also stand as a candidate. Candidates for the Council must live in the constituency for which they wish to be elected. A candidacy shall only be rejected if the candidate professes racist views or acts in an illegal or undemocratic manner (Annex II, Article 3).

3. International Observation

All stages of the election process will be open to international observation, to ensure that they are free and fair (Annex II, Article 5). The observers will include representatives from a large number of countries, including the United States, Russia, Egypt and Jordan, and international organizations, including the Organization of African Unity and the Islamic Conference Organization. At the request of Israel and the PLO, the European Union agreed to coordinate the election observation. The Interim Agreement provides for the establishment of a trilateral coordination forum, comprising the Palestinian Election Commission, Israel and the European Union to deal with all issues of security and logistics relating to the observers.

4. Participation of Palestinians of Jerusalem in the Elections

The DOP provided that Palestinians of Jerusalem who live there “will have the right to participate in the election process according to an agreement between the two sides” (Annex I, Article 1). In the course of the negotiations on the Interim Agreement, the Palestinian side insisted that this provision required that Jerusalem be treated as identical to the
West Bank and the Gaza Strip for the purposes of electoral administration, that Palestinians of Jerusalem be entitled both to vote and to be elected in the elections, and that voting should take place within Jerusalem. Israel argued that participation for the purpose of this provision required only that arrangements be made to enable Palestinians of Jerusalem to vote in the elections, and that voting should take place outside Jerusalem. Eventually, the following arrangements were agreed:

1. **Electoral Administration**

   Article 1(4) of Annex II of the Interim Agreement contains the following general provisions:

   a. All of the offices of the Central Election Commission and its subordinate bodies, including the offices of the District Electoral Commission (hereinafter “the DECs”) and the District Election Offices (hereinafter “the DEOs”) shall be situated in constituencies set out in the Palestinian Election Law in areas under the jurisdiction of the Council.

   b. All aspects of the electoral administration (such as publication of lists of electors or candidates, and other information concerning the conduct of the elections, appeals, counting votes, and publication of results) shall take place only in the offices of the relevant DEO.

These provisions have two significant implications with regard to election arrangements regarding Palestinians of Jerusalem:

i. All offices of the Central Election Commission must be situated outside Jerusalem. While for the purposes of enabling Palestinians of Jerusalem to vote, Jerusalem may be included within a larger constituency which also includes parts of the West Bank, all the offices of the electoral administration, including the polling stations, must be situated in the West Bank, that is, outside Jerusalem. This provision is consistent with the general provision (Article 1(7) of the agreement) requiring that all offices of the Palestinian Council be located in areas under its jurisdiction (see discussion in Section D.6 below).

ii. In addition, all aspects of the electoral administration must take place outside Jerusalem. Since the DEOs must be situated in the
West Bank or the Gaza Strip and all aspects of electoral administration are to take place only in these offices, it follows that no aspects of the electoral administration may be conducted within Jerusalem.

2. **Candidates**

Article 3(1)(b) of Annex II to the Interim Agreement provides that every candidate for election for the Council or the position of the Ra'ees must have a valid address in an area under the jurisdiction of the Council. In the case of a candidate for the Council, this address must also be in the constituency for which he or she is a candidate. Accordingly, a Palestinian who lives only in Jerusalem may neither be a candidate for the position of a Ra'ees nor for membership in the Council. Only Palestinians with a valid address outside Jerusalem, in the West Bank or the Gaza Strip, may be candidates for election. For the purpose of this provision, the agreement defines a valid address as "that of a residential property which is owned or rented or otherwise legitimately occupied by the candidate". That the candidate's address must be his or her genuine residence is further emphasized by the agreement's definition of "address" as "the specific abode in which a person actually lives" and of "abode" as a "main permanent fixed address" (Annex II, Article 2(1)(j)). A Palestinian who lives in the West Bank or the Gaza Strip, however, will not be barred from standing as candidate merely because he or she had a *second* address outside these areas, in Jerusalem or elsewhere (Annex II, Article 3(1)(b)).

3. **Election Campaigning**

Any campaign activities which take place in Jerusalem will be subject to the relevant provisions of Israeli Law. Candidates wishing to conduct such activities shall apply for the necessary Israeli permits from the Israel Police through the Central Election Commission. Representatives of this Commission, together with representative of the Israel Police, will form a special committee to coordinate issues relating to election campaigning in Jerusalem (Annex II, Article 6(1)).

4. **Polling Arrangements**

Most Palestinians in Jerusalem will vote at approximately 170 polling stations situated outside Jerusalem in the West Bank. They will
be notified by the Palestinian Central Elections Commission of the relevant polling station at which they are to cast their votes.

At the same time, a number of Palestinians of Jerusalem will vote in the election through services rendered in five specified post offices in Jerusalem, in accordance with the capacity of these post offices (Annex II, Article 6(2)). In discussions between the two sides, it was suggested that these postal facilities be made available to enable the elderly and infirm to participate in the elections. Those Palestinians who will vote through these Israeli post offices will be notified of the relevant post office by means of an Electoral Registration Card provided by the Central Election Commission.

In contrast to the situation in the West Bank and Gaza Strip polling stations, there will be no polling station commissions in the Israeli post offices. Any necessary procedures within such post offices will be conducted by the Israeli post office employees, who will be responsible for identifying the Palestinian electors and providing them with ballot papers and envelopes.

In these post offices, electors shall mark ballot papers at the post office counter and insert them in the envelopes addressed to the relevant DEO in the West Bank. Thereafter, such envelopes will be delivered to this office where they will be opened, and the enclosed ballot papers counted and totaled, along with all the other ballot papers cast in the West Bank.

D. THE PALESTINIAN COUNCIL

1. Structure of the Council

According to the agreement, the Palestinian Council will comprise 82 elected representatives and the Chairman ("Ra'ee") of the Executive Authority of the Council who, as noted above, is to be elected in separate and simultaneous elections (Article 4). After the conclusion of the Interim Agreement, Israel approved a Palestinian request to add one additional seat on the Council, which will be reserved for the Samaritan community of the Nablus district. Once elected, the Council
will replace the Palestinian Authority appointed pursuant to the Gaza-Jericho Agreement.

The elected Council possesses both executive and legislative powers (Article 3(2)). According to the DOP, these functions were to be performed by one organ (Article 7(2)). During the course of negotiations on the Interim Agreement, however, driven by its desire to see a full democratic Palestinian society, Israel agreed to permit a separation between the legislative body – the Council itself – and a smaller executive committee of the Council (the “Executive Authority”) (Article 5(1)). Such a division would ensure the existence of oversight and accountability – two prerequisites for a democratic regime.

While there is no specified number of members which are to compose the Executive Authority, the Palestinian Authority, which is performing similar functions in the Gaza Strip and the Jericho Area pending the inauguration of the Council, consists of 24 members. The Interim Agreement stipulates that the members of the Executive Authority must be drawn primarily from the Palestinian Council. However, the Ra’ees of the Executive Authority, with the Council’s approval, may appoint persons who are not members of the Council, the number of which can comprise up to twenty per cent of the total membership of the Executive Authority (Article 5(4)(c)). Israel agreed to such an arrangement, realizing that certain individuals who would be very suitable as members of the administrative body might not be able to be elected because they would be present outside the territories on the day of the elections, or might simply not desire to run as candidates in the elections. The agreement permits the Council to establish other committees in order to assist in controlling the activity of the Executive Authority and to simplify the Council proceedings.

2. Jurisdiction of the Council

The jurisdiction of the Palestinian Council in the West Bank and the Gaza Strip is defined in Article 17 of the Interim Agreement by three cumulative criteria: territorial jurisdiction, personal jurisdiction and functional jurisdiction.
a) Territorial Jurisdiction

The territorial jurisdiction of the Council is confined to those parts of the West Bank and the Gaza Strip in which powers and responsibilities have been transferred. As described below, while the transfer of territorial authority in the Gaza Strip and the Jericho Area was completed in May 1994, immediately after the signing of the Gaza-Jericho Agreement, the transfer of such authority to the Palestinian Council with regard to the rest of the West Bank is to be effected in a series of stages consistent with the phased redeployment of Israel forces. It follows that the territorial jurisdiction of the Council is not static, but will continue to expand throughout the process. At the conclusion of the process, the territorial jurisdiction of the Council will cover the territory of the West Bank and the Gaza Strip with the exception of “permanent status issues”, that is, Israel settlements and military locations (Article 17(8)). Israel retains territorial jurisdiction with regard to all West Bank and Gaza Strip lands not placed under Palestinian territorial jurisdiction (Article 17(4)(a)).

b) Functional Jurisdiction

With regard to the functional jurisdiction of the Council, Article 17(2)(b) of the agreement provided that this extends to all the “powers and responsibilities transferred to the Council, as specified in this Agreement or in any future agreement that may be reached between the parties”. Annex III of the Interim Agreement (Civil Affairs) deals with 40 spheres of civil authority. As noted above, since Israel has residual powers, unless Annex III specifically transfers particular powers and responsibilities to the Palestinian Council, such powers and responsibilities are retained by Israel. Indeed, with regard to some spheres, Israel declined to transfer authority, especially in matters pertaining to security (see Section E.1 below).

The functional jurisdiction of the Council generally only applies in areas that are placed under the territorial jurisdiction of the Council. Thus, the Council’s functional jurisdiction does not apply in Israeli settlements or in military locations. As an exception, however, with
regard to a few thousand Palestinians that live in isolated houses in non-populated areas of the West Bank who will continue initially to be under Israeli jurisdiction, the Council will have functional jurisdiction pertaining to non-territorial spheres of authority. Israel will retain the functional jurisdiction pertaining to territorial spheres of authority in these non-populated areas (see below).

c) Personal Jurisdiction

The personal jurisdiction of the Council covers all persons present within its territorial jurisdiction, except for Israelis, “unless provided otherwise in the agreement” (Article 17(2)(c)). Thus, the jurisdiction of Council in each of the spheres transferred is largely confined to non-Israelis, situated outside Israeli settlements and military locations. The proviso refers to the fact that, under the agreement, Israelis conducting ongoing business within the territorial jurisdiction of the Council are subject to the Council’s civil jurisdiction (Annex IV, Article 3(2)(a)). This jurisdiction, however, does not cover criminal matters. Thus, an Israeli who conducts business in an area under the territorial jurisdiction of the Council, must obtain all necessary business permits from the Palestinian Council and may be sued (for example, for breach of contract) in a Palestinian court. However, such an Israeli may not be tried in a Palestinian court if he or she commits a criminal offence, in which case the personal jurisdiction remains with the Israeli authorities. The reference to “Israelis” is defined in Article 20 as including Israeli statutory agencies and corporations registered in Israel. No distinction is made between Israelis resident in the West Bank and the Gaza Strip or visiting Israelis resident outside these territories. Nor is any distinction made between Israeli soldiers and civilians. Rather, all Israeli citizens remain under Israeli jurisdiction, save for the above-noted exception.

3. Legislative Powers of the Council

As mentioned above, the Council has legislative as well as executive powers. According to the Gaza-Jericho Agreement, the legislative
powers of the appointed Palestinian Authority were subject to an effective Israeli veto. During the Interim Agreement negotiations, it was decided not to constrain the elected Council with such a veto, as the Gaza-Jericho arrangements have shown this restraint to be impractical for both sides. The Palestinians were burdened by having to submit for prior Israeli approval every law or regulation. Likewise, the Israelis were burdened by the monumental task of continuously monitoring, translating into Hebrew and reviewing all primary and secondary Palestinian legislation. Accordingly, the Interim Agreement does not maintain the requirement that all Palestinian legislation be submitted for Israeli approval, but simply provides that the Council’s legislative powers may only be exercised within its jurisdiction (Article 18). The agreement goes on to provide that any legislation which exceeds this jurisdiction, or which is otherwise inconsistent with the DOP, the Interim Agreement or any other agreement between the two sides, “shall have no effect and be void ab initio” (Article 18(4)(a)). In addition, it should be noted that Article 18(4)(b) places a specific obligation upon the Ra’ees, who has a discretionary power to refuse to promulgate legislation approved by the Council, not to promulgate any legislation which fails to satisfy the requirements of this Article.

4. Judicial Organs

The Interim Agreement provides that the Council, within its jurisdiction, will have an independent judicial system composed of independent Palestinian courts and tribunals (Article 9(6)). The agreement also provides for the establishment of a Palestinian Court of Justice with powers of judicial review. This court, similar in nature to the Israeli High Court of Justice, may review any act or decision of the Chairman or any member of the Executive Authority of the Council and decide whether such act or decision is ultra vires, or otherwise incorrect in law or procedure (Article 8).

The establishment of Palestinian courts does not mean that the existing courts of the Israeli military government will cease to function. As noted above, the military government will continue in existence, retaining, inter alia, all judicial powers and responsibilities not
transferred to the Council (Article 17(4)). It follows that Israeli military courts may continue to function in the West Bank and the Gaza Strip with jurisdiction over all offences that are retained under the authority of the military government (primarily security offences).

5. The Conduct of Foreign Affairs

Article 9(5)(a) of the Interim Agreement provides:

In accordance with the DOP, the Council will not have powers and responsibilities in the sphere of foreign relations, which sphere includes the establishment abroad of embassies, consulates or other types of foreign missions and posts or permitting their establishment in the West Bank or the Gaza Strip, the appointment of or admission of diplomatic and consular staff, and the exercise of diplomatic functions.

Since under international law full capacity to conduct foreign relations is one of the accepted indicia of sovereignty and statehood, the Council’s lack of authority in the sphere of foreign relations is a clear indication of the fact that it is an autonomous and not an independent entity. However, as in the Gaza-Jericho Agreement, Israel understood that in order for the Palestinian Council to function effectively, a mechanism had to be established to enable some dealings with regard to specific matters between the Palestinian side and foreign States or international organizations.

Accordingly, the Interim Agreement permits the PLO (but not the Palestinian Council) to conduct negotiations and sign agreements with States or international organizations “for the benefit of the Council” in four specific categories (Article 9(5)(b)). These categories are: (i) specific economic agreements; (ii) agreement with donor countries for the purpose of implementing arrangements for the provision of assistance to the Council; (iii) certain agreements for the implementation of regional development plans; and finally (iv) cultural, scientific and educational agreements.

In the same vein, where the PLO has entered into an agreement under this paragraph, the Interim Agreement permits the Palestinian Council to deal with representatives of the relevant foreign state or the
international organization in order to implement this agreement. Furthermore, the Interim Agreement permits the establishment in the West Bank and the Gaza Strip of non-diplomatic “representative offices” for the purpose of implementing such an agreement. These activities by the Council are not considered foreign relations. Such a grant of limited authority to have dealings on the international plane is in accordance with international practice regarding autonomous regimes.

6. Location of Council Offices

The Interim Agreement provides that the offices of the Council, its various committees and the Ra’ees may only be established in areas under the territorial jurisdiction of the Council in the West Bank or the Gaza Strip (Article 1(7)). The significance of this provision is that the Council is not only prohibited from establishing offices within Israel, including in Jerusalem, but that, even within the West Bank and the Gaza Strip, these offices may not be located outside those areas in which powers and responsibilities have been transferred to the Council on a territorial basis.

E. Transfer of Civil Authority to the Council

1. General

The Interim Agreement provides for the transfer of agreed civil powers and responsibilities from the Israeli Civil Administration to the Palestinian Council. Specific arrangements for the transfer of 40 spheres of civil authority are set out in Annex III (Civil Affairs) of the agreement. With respect to each sphere, this Annex specifies (1) whether powers and responsibilities are transferred without any restrictions; (2) whether any specific powers and responsibilities, especially those with a bearing on security (such as telecommunications or aerial traffic), are retained by Israel; or (3) whether powers and responsibilities are transferred subject to particular restrictions. The
treatment accorded to some of the more important civil spheres is reviewed below.

2. Public Lands

The Interim Agreement provides that in those areas from which Israeli forces are redeployed, civil powers and responsibilities will be transferred to the Palestinian Council concurrently with the stages of redeployment. In this context, the authority to administer all public lands that are included within these areas will also be transferred (Annex III, Appendix 1, Article 16). Administration of public lands outside these areas will be retained by Israel. This includes all powers and responsibilities relating to territory, such as planning and zoning, quarries and mines, and public works and housing.

3. Water

Another highly sensitive issue dealt with in Annex III is the issue of authority over the water resources. Annex III sets out agreed principles and arrangements for the transfer of authority in this sphere (Appendix 1, Article 40). Among these principles, Israel recognizes Palestinian water rights in the West Bank. However, negotiations on the water rights, including the allocation of water resources and ownership of water-related infrastructure, will take place only during the permanent status discussions. During the interim period, Israel undertakes to increase the amount of water allocated to the Palestinians by 28.6 million cu.m. per year. Any additional supplies to either side will be based on an increase in available water resources to be developed through international funding, as well as mutual cooperation within the framework of the tripartite American-Israeli-Palestinian forum, which is to convene following the signing of the Interim Agreement.

This Article also provides for the establishment of a permanent water committee that will coordinate management of water resources and enforce water policies, protecting the interests of both parties by, *inter alia*, preventing uncontrolled drilling and enforcing standards.
4. Religious Sites

One of the most sensitive spheres dealt with in Annex III is that of religious sites (Appendix 1, Article 32). Under the arrangements set out for this sphere, responsibility over sites of religious significance in the West Bank and the Gaza Strip will be transferred to the Palestinian side in those areas from which Israel forces are redeployed. Outside these areas responsibility will be transferred gradually during the "further redeployment phase", except for religious sites located in Israeli settlements and military locations. Both sides are required to respect and protect religious rights of Jews, Christians, Moslems and Samaritans, protect holy sites under their respective jurisdiction, allow free access to them and permit freedom of worship and practice at the sites.

With regard to Rachel's Tomb in Bethlehem, Joseph's Tomb in Nablus and the Shalom Al Israel Synagogue in Jericho, special arrangements are set out in agreement to guarantee security, freedom of access and freedom of worship at these sites (Annex I, Article 5). With regard to the Tomb of the Patriarchs in Hebron, the parties agreed that the present situation at the tomb will be maintained and will be reviewed three months after the redeployment (Annex I, Article 7(8)).

F. Security and Redeployment

1. External Security and Security of Israelis and Settlements

Notwithstanding the transfer of powers and responsibilities relating to internal security and public order to the Palestinian Council in certain areas, the Interim Agreement provides that Israel will continue to have the responsibility for defence against external threats. This responsibility is defined as including responsibility for protecting the Egyptian and Jordanian borders and for defence against external threats from the sea and the air. Israel also retains the responsibility for the overall security of Israelis and Israeli settlements. Furthermore, the
agreement states that Israel shall have “all the powers to take the steps necessary to meet this responsibility” (Article 12(1)).

2. Internal Security and Public Order

With regard to internal security and public order in the West Bank, the agreement establishes initially three different types of arrangements:

i. Area A

Area “A” comprises the Jericho Area and the main Palestinian cities of the West Bank, namely Jenin, Nablus, Tulkarem, Kalkilya, Ramallah, Bethlehem and Hebron (except for the Old City of Hebron, the Jewish Quarter, and everything that is linked from there to Kiryat Arba and the Tomb of the Patriarchs). In Area ”A”, the Palestinian Council will have full responsibility for internal security and public order, as well as full responsibility for civil affairs.

ii. Area B

Area “B” comprises all of the other Palestinian populated areas in the West Bank (around 450 towns, villages, refugee camps and hamlets). In these areas, the Council will be granted full civil authority, as in Area “A”. The Council will also be charged with maintaining public order of Palestinians, while Israel will have overriding security authority for the purpose of protecting Israelis and confronting the threat of terrorism. The use of the word “overriding” indicates that this Israeli responsibility shall take precedence over the Palestinian responsibility for public order.

Twenty-five Palestinian police stations will be established in specified towns and villages in Area “B” to enable the Palestinian Police to exercise its responsibility for public order. The agreement requires that the movement of Palestinian Police be coordinated with and confirmed by Israel.
iii. Area C

Area “C” comprises the unpopulated areas of the West Bank, and includes areas of strategic importance to Israel and the Israeli settlements. In Area “C”, Israel will retain full responsibility for security and public order. The Palestinian Council will assume powers and responsibilities for civil affairs spheres not related to territory, such as economics, health and education, on a personal basis, with regard to a few thousand Palestinians residing in isolated houses in Area “C”. Israel will retain authority over all civil affairs spheres related to territory.

3. Redeployment and Further Redeployment

It will be recalled that, under the Gaza-Jericho Agreement, the withdrawal of Israeli military forces from all areas of the Gaza Strip, other than settlements and military locations, took place as a one-time operation. In contrast to the Gaza-Jericho approach, the security arrangements for the West Bank included in the Interim Agreement provide for a gradual redeployment of Israeli military forces to take place in a number of stages:

i. First phase of redeployment

The first phase of redeployment, designed to facilitate the holding of elections, involves the redeployment of Israeli forces from all of the populated areas of the West Bank. Special arrangements also provide for a partial redeployment in the city of Hebron. At the end of this first phase of redeployment, there will be no permanent Israeli military presence in any Palestinian population center. The agreement provides that the first phase of redeployment itself will be carried out in stages on a district-by-district basis.

ii. Further redeployments

In addition to the initial redeployment of Israeli military forces described above, the Interim Agreement provides that further stages of redeployment are to take place at six-month intervals to be completed 18 months after the inauguration of the Council (Article 11). In the course of these further redeployments, additional parts of Area “C” will
be transferred to the territorial jurisdiction of the Council, becoming either Area “A” or Area “B”, while parts of Area “B” may become Area “A” (Article 11(2)(b)). By the completion of the three stages of further redeployment in July 1997, the territorial jurisdiction of the Council will cover West Bank territory, except for Israeli settlements and military locations. Significantly, the military locations are referred to in Article 17(1) as “specified military locations” and not “agreed military locations” as suggested by the Palestinian side. The use of the word “specified”, rather than “agreed”, indicates that the number, extent and location of these areas is not a subject for negotiations between the parties, but rather will be decided unilaterally by Israel.

4. Palestinian Police and Security Policy

The Interim Agreement, in Article 14 and Annex I, provides for the establishment of a strong Palestinian Police that will constitute the only Palestinian security force in the West Bank and the Gaza Strip. This force will incorporate the Palestinian Police already deployed in the Gaza Strip and the Jericho Area, and will number up to 30,000 policemen, up to 12,000 of whom will be deployed in the West Bank and up to 18,000 in the Gaza Strip. The Security Annex specifies the deployment of the Palestinian Police, its weapons and equipment and its rules of conduct.

The DOP envisioned that the Palestinian elections would take place nine months after the entry into force of the DOP, that is, in July 1994. This required that the Interim Agreement be concluded prior to this date. In fact, the Interim Agreement was signed fourteen months later. This delay was in large part due to problems encountered in the implementation by the Palestinian Authority of the security provisions of the Gaza-Jericho Agreement. These problems were alleviated to some extent by the beginning of implementation of the declaration made by the Palestinian Authority on 9 March 1995, in which, for the first time, it clearly stated its security policy. This policy, which shall continue to bind the Palestinian Council throughout areas under its jurisdiction, is restated in Annex I, Article 2(1) of the Interim Agreement:
a) The Palestinian Police is the only Palestinian security authority.
b) The Palestinian Police will act systematically against all expressions of violence and terror.
c) The Council will issue permits in order to legalize the possession and carrying of arms by civilians. Any illegal arms will be confiscated by the Palestinian Police.
d) The Palestinian Police will arrest and prosecute individuals suspected of perpetrating acts of violence and terror.

5. Coordination in Security Matters

The complex allocation of security and public order responsibilities throughout the various areas of the West Bank, as described above, necessitates close coordination between the two sides on all issues relating to security. For this purpose, the agreement establishes a Joint Coordination and Cooperation Committee for Mutual Security Purposes. This committee has two joint regional subcommittees, one for the West Bank and the other for the Gaza Strip, and District Coordination Offices throughout these areas. The agreement also includes arrangements for Joint Patrols to ensure free and safe movement along key roads, Joint Mobile Units to provide rapid response in the event of incidents and emergency situations, and Joint Liaison Bureaus to coordinate activity at crossing points and terminals.

G. Legal Relations Between Israel and the Palestinian Council

Annex IV of the agreement sets out arrangements governing the legal relations between Israel and the Palestinian Council. These provisions define the criminal and civil jurisdiction of the Palestinian courts and include detailed arrangements for legal assistance in criminal and civil matters, including cooperation with regard to police investigations.
H. Economic Relations and Cooperation

The Economic Annex attached as Annex IV to the Gaza-Jericho Agreement has been incorporated into the Interim Agreement as Annex V. Its articles and appendices cover a variety of economic, monetary and financial issues. These include the application in Israel, the West Bank and the Gaza Strip of uniform customs and import policies so as to effectively convert Israel, the West Bank and the Gaza Strip into a single economic union. In addition, the entire annex VI of the agreement deals with cooperation between Israel and the Palestinian Council. Under this Annex, the parties undertake to cooperate on a number of programmes involving their respective officials, institutions and the private sector in various fields, such as economics, science, culture and society. A Standing Cooperation Committee is established under this Annex to consider and decide the methods and modalities for the implementation of the various areas of cooperation.

I. Human Rights and the Rule of Law

Under Article 19 of the Interim Agreement, both sides undertake to exercise their powers and responsibilities with due regard to the principles of human rights and the rule of law. In addition, the Israeli security forces and the Palestinian Police are required to carry out their functions and responsibilities while adhering to these international norms, guided by the obligation to protect the public, respect human dignity and avoid harassment.

J. Settlement of Differences and Disputes

As in previous Israel-PLO agreements, the Interim Agreement provides that negotiations through the Joint Liaison Committee will be the primary dispute settlement mechanism between the parties as to the application and interpretation of the Interim Agreement (Article 21). Where the Joint Liaison Committee is unsuccessful in resolving the dispute, there is no mandatory next step, but the agreement provides that such dispute "may be resolved by a mechanism of conciliation to
be agreed between the parties". The use of the word "may" and "to be agreed" indicates that this is a voluntary proceeding in which both parties must agree on the need for and manner of conciliation. Where conciliation fails, the parties "may agree to submit to arbitration" the outstanding dispute. Again, the wording indicates that this is a voluntary procedure.

K. Revocation of the Palestinian Covenant

The Interim Agreement contains a Palestinian undertaking that, within two months from the date of the inauguration of the Palestinian Council, the necessary changes will be made to the Palestinian Covenant with regard to those articles which deny Israel's right to exist or are otherwise inconsistent with the commitments included in Chairman Arafat's letter to Prime Minister Rabin of 9 September 1993 (Article 31(9)). This marks the first agreement in which a definite date has been specified for the amendment of the Covenant. In the original letter of 9 September 1993, Yasser Arafat only undertook that the Covenant was to be amended, but no particular date was set. In the Gaza-Jericho Agreement, it was provided that the Covenant would be amended in the next meeting of the Palestinian National Council, without setting a date for the meeting. The omission of a specific date for the revocation in the prior agreement was not accidental, but was meant to accommodate Yasser Arafat's continued contention that he would find it difficult to meet this obligation prior to the date of the Palestinian elections. As the Interim Agreement provides for the holding of these elections, the agreement provides a date for the revocation of the Covenant contingent on the inauguration of the Council. Additionally, unlike previous agreements which simply requested that the Palestinian side present the necessary changes in the Palestinian Covenant to the Palestinian National Council, the Interim Agreement goes a step further and stipulates that the necessary changes be implemented. The obligatory language is stronger and mandates compliance.
L. RELEASE OF PRISONERS

In an effort to foster a positive atmosphere in the Palestinian public to accompany the implementation of the Interim Agreement, the agreement contains arrangements for the release of Palestinian detainees and prisoners who are residents of the West Bank and the Gaza Strip (Article 16(1)). A similar provision was included in the Gaza-Jericho Agreement, pursuant to which 5,000 prisoners and detainees were released.

Detainees and prisoners from categories listed in Annex VII of the Interim Agreement are to be released in three stages. The first stage of the release took place on the signing of the agreement. To date, close to 900 prisoners and detainees have been released pursuant to the Interim Agreement. The second stage is to take place prior to the date of the elections. A third stage of release of detainees and prisoners will take place during the permanent status negotiations. At that time, the parties may explore further categories for release.

M. COORDINATION MECHANISMS

As noted above, a number of joint committees are established in the agreement to coordinate various fields of activity – the Joint Security Committee, the Civil Affairs Committee, the Legal Committee, the Joint Economic Committee and the Standing Cooperation Committee. At the highest level, the Joint Israeli-Palestinian Liaison Committee established pursuant to the DOP will continue to be responsible for ensuring the smooth implementation of the agreement. At the same time, in the light of the parties' experience in implementing the previous agreements, the parties also agreed to establish a subcommittee of the joint Liaison Committee – the Monitoring and Steering Committee – to be responsible on an ongoing basis for monitoring the implementation of the agreement and steering the various joint committees (Article 26).
N. Conclusion

The Interim Agreement is one of the most complicated agreements that Israel has ever concluded. It may be one of the most complex autonomy arrangements ever to have been negotiated. The agreement is ambitious, in that it attempts to lay the groundwork for an all-comprising resolution of the bitter, long-standing Israeli-Palestinian dispute. At the same time, it is fragile, due to the multitude of explosive issues that require constant attention, such as the conflicting national and religious claims and the ever-present security threats.

While the implementation of previous stages of the DOP was accompanied at the outset by numerous misunderstandings, violations and incrimination, it appears that, with the experience gained, the parties are increasingly successful in finding a common language in which to discuss and resolve their differences. It is to be hoped that this trend will continue as the parties face negotiations over even more sensitive issues, and that it will assist them in realizing their desire, as expressed in the Preamble to the Interim Agreement, “to achieve a just, lasting and comprehensive peace settlement and historic reconciliation”.