

The Oslo Accords - A Perspective in International Legal Compliance

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Introduction

"I have recounted it as an unfinished document of Palestinian history and the Palestinian national struggle. I leave to history itself, and to our future Palestinian generations, the duty of judging what we did at Oslo. Future generations will look back, pronounce their verdicts, and reach their conclusions, as more facts about the events emerge, and as distance makes possible objective analysis." – Ahmed Qurie (Abu Ala), Palestinian negotiator in the secret negotiations in Oslo.

30 years into the signing of the Oslo Accord I in 1993, it is apt time to deliver a final verdict on the series of agreements once hailed as the greatest hope for peace in Palestine and the Middle East. The "disconnect between text and de facto circumstances", however, as observed by Professor Richard Falk, suggests that the relationship between the Accords and situation on the ground in Palestine as it is today, is not straightforward, calling for a scrutiny of the web of linkages and discrepancies between text and reality.

Objective

Despite the sea of literature surrounding the Oslo Accords, legal scholarship on the topic is concentrated in the early years after Oslo. This research aims to fill the research gap on legal scholarship from the early years of Oslo to this day. I continue the unfinished analysis of the Oslo Accords from the perspective of international legal compliance and hope to offer a refined understanding of the Accords, in line with developments over time.

Theoretical Framework

This research scrutinizes the Accords under the theoretical framework of international legal compliance, an interdisciplinary field of studies between international relations and international law. Various theoretical models of compliance were applied to scrutinize the Accords, including Henkin's consent theory, Franck's fairness theory, Koh's transnational legal process, Chayes' managerial model, and Guzman's reputational theory.

Methodology

The research first begins with a black-letter reading of the text of the Oslo Accords in a legal doctrinal method. It is then followed by an empirical analysis of compliance, with the assistance of primary and secondary sources over the past three decades. The analysis is coupled with the application of theoretical models of legal compliance. Altogether, a systematic analysis of compliance with the Oslo Accords is formulated.

Analysis & Findings

A structured understanding of the Oslo Accords can be formulated by categorizing the provisions into five categories: (I) Provisions which establish Palestinian jurisdiction; (II) Provisions which limit Palestinian jurisdiction; (III) Provisions which safeguard Palestinian rights; (IV) Provisions which limit Palestinian rights; (V) Provisions on future negotiations and final status issues. This categorization serves as the framework for the analysis of compliance which follows.

Upon analysis of the situation on the ground in the past three decades, it is found that provisions which establish Palestinian jurisdiction and those which safeguard Palestinian rights have largely been eroded. Meanwhile, provisions which limit Palestinian jurisdiction and Palestinian rights have been significantly upheld and further expanded upon.

These observations are underlined by realist power dynamics between the parties involved (Israel and the Palestinian Liberation Organization) and are best understood in light of Chayes' managerial model and cooperative approach. In this case, compliance occurs in and when the parties interests intersect, while non-compliance occurs otherwise.

Preliminary Conclusion: The common and widespread argument that the Oslo Accords was not complied with, has failed, or has ended, is largely inaccurate. The correct understanding of the Oslo Accords, from the perspective of compliance analysis, is that (I) certain provisions of the agreements have been complied with to varying extents; while other provisions have not; (II) an analysis of compliance best explains the institutional framework in the West Bank and Gaza nowadays; (III) the system created by semi-compliance with the Oslo Accords outlived the timeframe of the 5-year interim agreement itself, remains in place to this day, and is likely to continue into the future.



Year	Agreement
1993	Declaration of Principles on Interim Self-Government Arrangements ("Oslo I Accord")
1993	Exchange of Letters between Yasser Arafat and Yitzhak Rabin on Mutual Recognition
1994	Agreement on the Gaza Strip and the Jericho Area ("Gaza-Jericho Agreement")
1994	Protocol on Economic Relations ("Paris Protocol")
1995	Interim Agreement on the West Bank and the Gaza Strip ("Oslo II Accord")
1997	Protocol Concerning the Redeployment in Hebron ("Hebron Protocol")
1998	Wye River Memorandum
1999	Sharm El Sheikh Memorandum

Further Research (Ongoing)

A number of significant questions have stemmed from this research, which is being continued in due course:

- The discrepancy between the stipulated timeframe and the actual implementation of an agreement
 - Has the Oslo Accords, as an agreement under international law, been terminated in legal terms?
 - On what grounds does the institutional framework in the West Bank and Gaza remain in place?
- The phenomenon where an interim institutional/constitutional framework outlives its legal timeframe
 - How long will the system established under semi-compliance with the Oslo Accords remain in place?
 - Is such system of semi-compliance the equilibrium point (unlikely to change) for Israel/Palestine?
 - Has there been any similar situations in other cases of armed conflict or jurisdictions in transition?
 - What insights can be drawn from the case of Oslo in terms of interim constitutional frameworks?

Interim Constitutions

Peacekeeping and Democracy-Building Tools