

House of Representatives
Committee on Oversight and Government Reform
Subcommittee on National Security

Hearing on

“Moving the American Embassy in Israel to Jerusalem: Challenges and Opportunities”

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Statement submitted by

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It would be a diplomatic mistake and detrimental to American interests for the United States to relocate our embassy to Jerusalem in the present posture of the Israeli-Palestinian dispute. During my four years as President George W. Bush’s Ambassador to Israel – and indeed throughout three decades of government service devoted almost entirely to advancing the interests of the United States vis-à-vis Israel and the Palestinians – no topic was as sensitive as Jerusalem.

Congress has long been attuned to the unique nature of this issue. In enacting the Jerusalem Embassy Act of 1995, Congress prudently included a waiver provision permitting the executive branch to defer implementation of an embassy move. For 22 years, four presidents from both parties have exercised that waiver authority to avoid committing the United States to the consequences of such a unilateral change. Consistent with that longstanding judgment, the President should continue to waive implementation of the Act, while at the same time exerting significant effort to break the diplomatic stalemate in the peace process.

Several important factors underpin this policy recommendation.

First, it has long been United States policy to oppose unilateral actions by either party – or by third parties – that seek to change the status quo outside of the negotiations. If the United States were to engage in unilateral action on this central disputed issue, we would substantially undermine our ability to persuade the parties

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themselves, or other third parties, to avoid doing so. For example, the United States has expended important diplomatic capital to oppose unilateral Palestinian efforts to secure full member status in international organizations in the absence of a political settlement. To date, many of these efforts have been successful. A unilateral move of our embassy to Jerusalem would cost the United States deeply in terms of credibility on such issues, and that cost would far outstrip any supposed benefits to both the United States and, I believe, Israel.

Second, the extraordinarily close relationship between the United States and Israel -- which I was proud to help build during my government service -- is no secret, including to the Palestinians. Indeed this relationship is itself a critical pillar of U.S. foreign policy. However, our ability to be -- and be seen to be -- the indispensable third party whose leadership and authority are vital to steward the parties to a negotiated resolution that is squarely within our own interests would be compromised by a decision to move our embassy to Jerusalem. We would be crossing a clear red line for the Palestinians and for many Arab and Muslim states, including those with whom we share friendship and regional security interests. The interests of the United States would not be advanced by crossing that line.

To be sure, it is apparent to all observers that western Jerusalem is certain to be incorporated within the State of Israel *de jure*, as it already is *de facto*, in the context of a final status resolution. But the terms of that resolution, including the borders of Jerusalem have yet to be agreed. A move of our embassy to any location within Jerusalem would be seen to prejudice both the final status and the ultimate determination of the agreed borders. Israel unilaterally expanded the municipal boundaries of Jerusalem after the June 1967 war. Situating our embassy in Jerusalem before the parties themselves have agreed to such a step would be construed as functional acceptance on the part of the United States of Israel's decision to enlarge that municipal boundary.

The United States has been a steadfast supporter of Israel through thick and thin for decades. But across those decades, the United States has also held firm to the principle that international boundaries are not to be modified by force or unilateral action. How can we articulate principled opposition to the action of others -- for example, Russia's annexation of Crimea -- if we look the other way when our friends and allies do the same thing?

It must also be noted how this decision, if undertaken, would increase the security threat to U.S. diplomats, citizens and facilities in many parts of the Muslim world. Certainly, such violence would be absolutely unjustified. And equally, United States policy should never be driven away from the correct outcome by threats of terror.

Here, though, the outcome is the wrong outcome -- one that would cause a serious setback in our interests for no discernible policy gain.

In diplomacy, timing is often as important as substance. In my own experience, there was at least one possible moment when we might have made this embassy move successfully – in a way consistent with our stated policy, and attuned to the pitfalls noted above. In the weeks before the 1993 signing of the Oslo Accord, when I was on the Administration's "peace team," I proposed simultaneously moving our embassy to West Jerusalem and establishing a second mission in East Jerusalem to represent United States interests vis-à-vis the Palestinian Authority. I argued that the political breakthrough of Oslo provided an opportunity to achieve something of importance for both Israelis and Palestinians. To my regret, no action was taken. Since then, there has not been a similar fortuitous moment in which the United States could have undertaken a bold diplomatic move of benefit to both parties with respect to Jerusalem. When such a moment arises, I will be first in line to push for this move, but I see no plausible basis to conclude that the current political and diplomatic circumstances present anything like such a moment.

Two important notes: the issue of where the United States embassy to Israel is located must not be confused with the question of the connection between the Jewish people and Jerusalem. The historical, religious and political connections between the Jews and Jerusalem are a matter of fact, not opinion. Palestinian leaders and others who have sought to deny this connection are simply wrong, and their arguments should be rejected categorically. But that is a different discussion than whether it advances U.S. interests to undertake a particular provocative diplomatic move at this time. As articulated above, it does not.

The issue also should not be decided by the lawyers. There is a significant divergence of views regarding the legal status of Israel with respect to the territories it occupied as a result of the 1967 war. The debate over whether Israel's control of Jerusalem constitutes a "belligerent occupation" or some other status is important, but must not be dispositive with respect to what is clearly a policy (and political) decision.

A final and personal note regarding the Jerusalem Embassy Act of 1995. I recognize the strong sentiment within Congress that our embassy should be located in Jerusalem. In the context of a final status deal, I wholeheartedly endorse that move. In the meantime, though, the reality is that the Act has compromised the security of Americans by hindering the ability of those in the field to improve embassy security. During my tenure as Ambassador, I could not certify that our chancery building in Tel Aviv was secure. It sits between two busy streets, does not have adequate setback, and was not constructed to the standards now required for our diplomatic buildings. During the second Palestinian Intifada, a suicide bomber attacked a café just a few feet

north of the embassy, and another suicide bomber attempted an attack against a restaurant just a few feet south (this attack was prevented by our extraordinarily brave embassy security personnel). Yet we could not even consider a move to a more secure facility, because the Act prevented us from doing so other than by moving the embassy to Jerusalem. Thus, Congress's well-intentioned legislation has become a barrier to ensuring the security of American personnel. I urge Congress to take the appropriate steps to ensure that the Act does not continue to prevent moving the embassy temporarily to a more secure location until a peace agreement is reached and the embassy can be relocated permanently to Jerusalem.

For all these reasons, therefore, I strongly recommend that the President continue to waive the provisions of the Jerusalem Embassy Act of 1995 and that the U.S. Embassy not be relocated to Jerusalem until a final status agreement is reached between Israel and the Palestinians. I also recommend that the Congress permit the embassy to relocate to a more secure location until it can be moved to Jerusalem after a peace accord is reached. And I recommend equally strongly that the administration intensify its efforts to achieve a peace settlement to this longstanding dispute.

I thank the Committee for permitting me to include this statement in the record.