

Draft Congressional Resolution on Settlements

114th CONGRESS
2nd SESSION

H.Res. XXXX

Reaffirming longstanding U.S. policy which deems Israel's settlements in Occupied Palestinian Territory a violation of international law.

(for himself and...) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Expressing the sense of the House of Representatives regarding the negative impact that Israeli settlements in Occupied Palestinian Territory have on efforts to promote Israeli-Palestinian peace.

Whereas Israel has held the Occupied Palestinian Territory of the West Bank, including East Jerusalem, and the Gaza Strip—in addition to the Syrian Golan Heights—under military occupation since June 1967 and is the Occupying Power of this territory under international law.

Whereas in an advisory opinion issued on July 9, 2004, the International Court of Justice concluded that “the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law.”

Whereas Article 49 of the Convention (IV) relative to the Protection of Civilian Persons in Time of War states: “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”

Whereas Article 8, Section 2(b)(viii) of the Rome Statute of the International Criminal Court defines as a war crime “The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies.”

Whereas since 1967, Israel has established at least 170 illegal settlements on Occupied Palestinian Territory in the West Bank and East Jerusalem and in the Occupied Syrian Golan Heights.

Whereas according to the Israeli Prime Minister Benjamin Netanyahu, as of 2011, at least 650,000 Israelis reside in these illegal settlements.

Whereas in September 1967, Theodore Meron, Legal Counsel of the Israeli Foreign Ministry, wrote in legal memoranda for the Israeli government that “civilian settlement in the administered territories contravenes the explicit provisions of the Fourth Geneva Convention” and that this prohibition is “categorical and is not conditioned on the motives or purposes of the transfer, and is aimed at preventing colonization of conquered territory by citizens of the conquering state.”

Whereas in April 1978, Herbert J. Hansel, Legal Advisor, Department of State, wrote a letter to Members of Congress on the illegality of Israeli settlements and concluded that “the establishment of the civilian settlements in those territories is inconsistent with international law.” In 2009, Hansel stated: “As far as I know, I don't think it has ever been rescinded or challenged by any legal officer of the United States government.”

Whereas in March 1979, the United Nations Security Council adopted Resolution 446, which determined “that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”

Whereas according to the Administration of former President Lyndon B. Johnson, “By setting up civilian or quasi-civilian outposts in the occupied areas the GOI adds serious complications to the eventual task of drawing up a peace settlement. Further, the transfer of civilians to occupied areas, whether or not in settlements which are under military control, is contrary to Article 49 of the Geneva Convention, which states “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”

Whereas on July 1, 1969, then-U.S. Permanent Representative to the United Nations Charles Yost under the Nixon Administration stated, “The expropriation or confiscation of land, the construction of housing on such land, the demolition or confiscation of buildings, including those having historic or religious significance, and the application of Israeli law to occupied portions of the city are detrimental to our common interests in [Jerusalem]. The United States considers that the part of Jerusalem that came under the control of Israel in the June war, like other areas occupied by Israel, is governing the rights and obligations of an occupying Power. Among the provisions of international law which bind Israel, as they would bind any occupier, are the provisions that the occupier has no right to make changes in laws or in administration other than those which are temporarily necessitated by his security interests, and that an occupier may not confiscate or destroy private property.”

Whereas on March 23, 1976, then-U.S. Ambassador to the United Nations William Scranton stated, “Substantial resettlement of the Israeli civilian population in occupied territories, including East Jerusalem, is illegal under the convention and cannot be considered to have prejudged the outcome of future negotiations between the parties on the locations of the borders of states by the Middle East. Indeed, the presence of these settlements is seen by my government as an obstacle to the success of the negotiations for a just and final peace between Israel and its neighbors.”

Whereas in April 1980, former President Jimmy Carter stated, “Our position on the settlements is very clear. We do not think they are legal.”

Whereas in September 1982, the Reagan Plan stipulated, “the immediate adoption of a settlements freeze by Israel, more than any other action, could create the confidence needed for

wider participation in these talks. Further settlement activity is in no way necessary for the security of Israel and only diminishes the confidence of the Arabs that a final outcome can be free and fairly negotiated.”

Whereas on May 22, 1991, then-Secretary of State James Baker III stated, "I don't think there is any greater obstacle to peace than settlement activity that continues not only unabated but at an advanced pace."

Whereas on March 3, 1990, former President George H.W. Bush stated, "My position is that the foreign policy of the United States says we do not believe there should be new settlements in the West Bank or in East Jerusalem. And I will conduct that policy as if it's firm, which it is, and I will be shaped in whatever decisions we make to see whether people can comply with that policy. And that's our strongly held view."

Whereas on November 27, 1989, then-U.S. Ambassador to the United Nations Thomas Pickering stated, "Since the end of the 1967 war, the U.S. has regarded Israel as the occupying power in the occupied territories, which includes the West Bank, Gaza, East Jerusalem, and the Golan Heights. The U.S. considers Israel's occupation to be governed by the Hague Regulations of 1907 and the 1949 Geneva Conventions concerning the protection of civilian populations under military occupation."

Whereas on January 7, 2001, former President Bill Clinton stated. "The Israeli people also must understand that . . . the settlement enterprise and building bypass roads in the heart of what they already know will one day be part of a Palestinian state is inconsistent with the Oslo commitment that both sides negotiate a compromise."

Whereas on October 20, 2005, former President George W. Bush stated "Israel should not undertake any activity that contravenes its road map obligations, or prejudices the final status negotiations with regard to Gaza, the West Bank, and Jerusalem. This means that Israel must remove unauthorized posts and stop settlement expansion"

Whereas on March 24, 2005, then-Secretary of State Condoleezza Rice stated, "Now, our position on settlement activity has not changed. We have said to the Israelis that they have obligations under the roadmap, they have obligations not to increase settlement activity."

Whereas on May 18, 2009, President Barack Obama stated: "Settlements have to be stopped in order for us to move forward."

Whereas on May 27, 2009, then-Secretary of State Hillary Clinton expanded upon this statement, clarifying: "With respect to settlements, the President was very clear when Prime Minister Netanyahu was here. He wants to see a stop to settlements—not some settlements, not outposts, not natural growth exceptions."

Whereas on April 17, 2013, Secretary of State John Kerry testified to the House Committee on Foreign Affairs that due to Israel's ongoing settlement expansion, "I believe the window for a two-state solution is shutting. I think we have some period of time: a year, a year and a half to two years—or it's over."

Whereas on the Department of State's Country Reports on Terrorism 2013 noted: "Attacks by extremist Israeli settlers against Palestinian residents, property, and places of worship in the West Bank continued and were largely unprosecuted according to UN and NGO sources. The

UN Office of the Coordinator for Humanitarian Affairs reported 399 attacks by extremist Israeli settlers that resulted in Palestinian injuries or property damage. Violent extremists, including Israeli settlers, vandalized five mosques and three churches in Jerusalem and the West Bank, according to data compiled by the UN: Now, therefore, be it

Resolved, that it is the joint sense of Congress that Congress –

- (1) Reaffirms the determination of the Department of State that Israeli settlements built over the 1967 demarcation line are an obstacle to peace between Israelis and Palestinians and inconsistent with international law;
- (2) Supports the Administration in its effort to halt Israel's expansion of settlements built over the 1967 demarcation line which make peace more difficult and create instability between Israelis and Palestinians;
- (3) Urges Israel to immediately comply with its obligations to halt the expansion of settlements in accordance with the April 2001 Report of the Sharm el-Sheikh Fact-Finding Committee ("The Mitchell Report"), the April 2003 performance-based roadmap to a permanent two-state solution to the Israeli-Palestinian conflict ("The Roadmap"), and the November 2007 Joint Understanding Read by President Bush at the Annapolis Conference;
- (4) Urges the President to instruct the Internal Revenue Service to submit to Congress annual reports on all organizations designated by the Internal Revenue Service as 501(c)(3) tax-deductible entities which provide directly or indirectly material support for Israeli settlements built over the 1967 demarcation line;
- (5) Urges the President to submit a quarterly report to Congress on the expansion of Israeli settlements built over the 1967 demarcation line and Israel's compliance with its previous commitments to freeze settlement expansion.