

**Written Testimony of  
Zionist Organization of America (ZOA) National President Morton A. Klein**

**Hearing on Moving the American Embassy in Israel to Jerusalem:  
Challenges and Opportunities  
Before the  
House of Representatives Committee on Oversight and Government Reform  
Subcommittee on National Security  
November 8, 2017, 10:00 a.m.  
Rayburn House Office Building, Room 2167**

**Introduction:**

Chairman DeSantis, Vice Chairman Russell, Ranking Member Lynch, and Members of the Committee: Thank you for holding this hearing to examine relocating the United States Embassy in Israel to Jerusalem,<sup>1</sup> thereby finally implementing the bi-partisan Jerusalem Embassy Act of 1995, which Congress passed virtually unanimously<sup>2</sup> twenty-two years ago.

It is a special privilege to come before you during this year of momentous anniversaries: the 100th anniversary of both the Balfour Declaration and President Woodrow Wilson's essential prior U.S. consent to the Balfour Declaration<sup>3</sup>; and the 50th anniversary of the miraculous reunification of Jerusalem in the 1967 Six-Day War, when Israel defended herself from Jordan's attack.

I'd like to quote from then-Senator and subsequent Vice President Joe Biden's statement in 1995, urging Congress to pass the Jerusalem Embassy Act. Senator/VP Biden eloquently described the central importance of Jerusalem to the Jewish people, and the justice of recognizing and moving the American embassy to Israel's unified sovereign capital Jerusalem, as follows:

*"Those familiar . . . with the Jewish people know the central meaning that the ancient city of Jerusalem has for Jews everywhere. Time and again, empires have tried to sever*

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<sup>1</sup> Jerusalem Embassy Act of 1995 (S. 1322 (104th)), Pub. L. 104-45, Nov. 8, 1995, 109 Stat. 398, at <https://www.gpo.gov/fdsys/pkg/STATUTE-109/pdf/STATUTE-109-Pg398.pdf>

<sup>2</sup> S. 1322 passed by 93 to 5 in the Senate, and by over 90% of the vote in the House (374-37). <https://www.govtrack.us/congress/bills/104/s1322/details>

<sup>3</sup> Britain required prior consent from its allies France and the United States before issuing the Balfour Declaration. "The Forgotten Truth about the Balfour Declaration," by Prof. Martin Kramer, Mosaic Mag., June 5, 2017, at <https://mosaicmagazine.com/essay/2017/06/the-forgotten-truth-about-the-balfour-declaration/>

*the umbilical cord that unites Jews with their capital. They have destroyed the temple. They have banished the Jews from living in Jerusalem. They have limited the number of Jews allowed to immigrate to that city. And, finally, in this century, they tried simply to eliminate Jews. They may have succeeded . . . in destroying physical structures and lives. **But they have never succeeded in wholly eliminating Jewish presence in Jerusalem, or in cutting the spiritual bond between Jews and their cherished capital.** After the horrific events of the Holocaust, the Jewish people returned to claim what many rulers have tried to deny them for centuries: The right to peaceful existence in their own country in their own capital. How many of us can forget that poignant photograph of an unnamed Israeli soldier breaking down in tears and prayer as he reached the Western Wall after his army liberated the eastern half of the city in the Six Day War? Those tears told a story. A story of a people long denied their rightful place among nations. A people denied access to their most hallowed religious sites. A people who had finally, after long tribulation, come home.”<sup>4</sup>*

The Jews were indeed the largest religious group in Jerusalem from at least the time of the first census in 1844, through the present day.<sup>5</sup> In approximately 1880, Jews became the majority in Jerusalem. In 1906, out of a total Jerusalem population of 60,000: 40,000 were Jews; 13,000 were Christians and only 7,000 were Muslims.<sup>6</sup>

Senator/VP Biden also commented that maintaining embassies in Tel Aviv for the previous forty-seven years (1948-1995) was a “*continued sham*” and “*a denial of fundamental reality.*”<sup>7</sup> That sham and denial of fundamental reality has now continued for 69 years.

As I will discuss, moving the U.S. Embassy to Israel’s capital will achieve tremendous benefits for the United States and our allies throughout the world.

### **1. Moving the U.S. Embassy to Jerusalem Fulfills U.S. and International Law and Policy:**

The move to Jerusalem will effectuate U.S. law and policy, as well as binding international law, to which the United States is a party, designating Israel, including Jerusalem, as the Jewish homeland.

#### **(a) The Jerusalem Embassy Act of 1995 Establishes Moving the Embassy as U.S. Policy**

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<sup>4</sup> Statement of Senator Joe Biden, Cong. Record Vol. 141, No. 165, Oct. 24, 1995 (Senate), p. S-15533, at <https://www.gpo.gov/fdsys/pkg/CREC-1995-10-24/html/CREC-1995-10-24-pt1-PgS15522.htm> (Emphasis is supplied, unless otherwise specified.)

<sup>5</sup> “*Population of Jerusalem: 1844 to Present*,” Jewish Virtual Library, at <http://www.jewishvirtuallibrary.org/population-of-jerusalem-1844-2009>

<sup>6</sup> Baedekers’ Guide to Jerusalem, 1906.

<sup>7</sup> Statement of Senator Joe Biden, Oct. 24, 1995, *supra*, p. S-15533.

The bi-partisan Jerusalem Embassy Act of 1995, passed virtually unanimously, states that it is U.S. policy that Jerusalem “*should remain an undivided city . . . recognized as the capital of the State of Israel*” and that “*the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.*”<sup>8</sup>

The Jerusalem Embassy Act lists seventeen historical, religious, factual and legal findings warranting the embassy move. Legal-related findings include: “(1) *Each sovereign nation, under international law and custom, may designate its own capital*”; “(2) *Since 1950, the city of Jerusalem has been the capital of the State of Israel*”; and “(16) *The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.*” The Jerusalem Embassy Act also invokes the prior passage of unanimous Congressional resolutions (1990 and 1992); and respective 1995 Senate and 1993 House letters to the Secretary of State encouraging “*planning to begin now*” for relocation of the embassy to Jerusalem, and that the relocation “*should take place no later than . . . 1999.*”<sup>9</sup>

**(b) The Jerusalem Embassy Act’s Waiver Provision Is Required to be Narrowly Construed, and is *Not* Intended to be Invoked Repeatedly or for Policy Disagreements**

For the past two decades, successive U.S. administrations have repeatedly invoked the Jerusalem Embassy Act’s waiver provision every six months, even though the waiver provision was *not* intended to permit such repeated delays. The Jerusalem Embassy Act states that the President may invoke additional six-month waivers

*“if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.”*<sup>10</sup>

In Congressional hearings in 1995, then-Senator and Majority Leader Robert (“Bob”) Dole, who introduced the Jerusalem Embassy Act along with Senators Moynihan, Kyl, Inouye, and 61 other colleagues,

Senator Dole also explained, during the following revealing exchange with then-Senator Kyl, that the waiver provision is required to be narrowly construed, may *not* be lawfully invoked simply because an administration disagrees as to when or if the embassy should be moved, and is *not* intended to allow indefinite delays. The Jerusalem Embassy Act’s intent was for the American embassy to be established in Jerusalem by May 1999:

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<sup>8</sup> Jerusalem Embassy Act of 1995, *supra*, § (3)(a)(1)-(3), Statement of Policy of the United States.

<sup>9</sup> *Id.*, § 2, Congressional findings (1), (2), (9), (10), (13), (14) and (16).

<sup>10</sup> Jerusalem Embassy Act of 1995, *supra*, Presidential Waiver, §§ 7(a)(1) and (2).

Mr. KYL: *The waiver provision in S. 1322 will be examined by many people. I would like to join with the distinguished majority leader in clarifying on the Record the meaning and purpose of the waiver language.*

Mr. DOLE: . . . *It is important that no one think that this [waiver] provision would allow the President to ignore the requirements of S. 1322 simply because he disagrees with the policy this legislation is promulgating. **The President cannot lawfully invoke this waiver simply because he thinks it would be better not to move our Embassy to Jerusalem or simply because he thinks it would be better to move it at a later time. The waiver is designed to be read and interpreted narrowly.** It was included to give the President limited flexibility -- flexibility to ensure that this legislation will not harm U.S. national security interests in the event of an emergency or unforeseen change in circumstances.*

Mr. KYL: *What is the significance of the phrase "national security interests" as opposed to "national interest"?*

Mr. DOLE: *This is the way we are ensuring that **the waiver will not permit the President to negate the legislation simply on the grounds that he disagrees with the policy.** "National security interests" in [sic] **much narrower** than the term "national interest"-- and it is a higher standard than national interest. The key word is security. **No President should or could make a decision to exercise this waiver lightly.***

Mr. KYL: *Is it fair to say that the intention of the waiver is to address constitutional concerns that have been raised about S. 1322?*

Mr. DOLE: *It is fair to say **the waiver is intended to address unusual or unforeseen circumstances.** We believe S. 1322 is constitutional even without the waiver, but the constitutional questions that have been raised about it deal [[Page S 15532]] with issues so important that we think it is best to offer the President the limited flexibility of the waiver. It is within the constitutional appropriations power of Congress to withhold funds from the executive branch if it does not act in accordance with congressional mandates.*

Mr. KYL: *Although in drafting the legislation Senators did not limit the number of times the President could invoke the waiver authority, is it correct to say that the intent of the drafters is not to grant the President the right to invoke the waiver in perpetuity?*

Mr. DOLE: ***The waiver authority should not be interpreted to mean that the President may infinitely push off the establishment of the American Embassy in Jerusalem. Our intent is that the Embassy be established in Jerusalem by May 1999. If a waiver were to be repeatedly and routinely exercised by a President, I would expect Congress to act by removing the waiver authority.***<sup>11</sup>

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<sup>11</sup> Statement of Senator Bob Dole, Oct. 24, 1995, *supra*, p. S-15528.

Senator Dole also explained that the presidential waiver was added to the bill “*despite having the votes to prevail*” without the waiver. This was simply done in the spirit of addressing any administration concerns.<sup>12</sup>

My (Morton Klein’s) personal discussions about the Jerusalem Embassy Act with its authors and many other members of Congress in 1995 and since then, likewise indicated that the Jerusalem Embassy Act’s waiver provision was *not* intended to be used to repeatedly delay the move for two decades past the stated deadline of 1999. I also observed, based on these conversations, that there were more than sufficient votes for the Jerusalem Embassy Act to pass without the last-minute insertion of the waiver provision.

### **(c) Additional U.S. Legal Commitments to Move the American Embassy to Jerusalem**

Congress has reiterated its commitment to moving the embassy to Jerusalem. Section 214 of the Foreign Relations Authorization Act, FY 2003, provided:

*“UNITED STATES POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL.  
(a) CONGRESSIONAL STATEMENT OF POLICY- The Congress maintains its commitment to relocating the United States Embassy in Israel to Jerusalem and urges the President, pursuant to the Jerusalem Embassy Act of 1995 (Public Law 104-45; 109 Stat. 398), to immediately begin the process of relocating the United States Embassy in Israel to Jerusalem.”*<sup>13</sup>

The U.S. obligation to move the embassy is further buttressed by pre-existing U.S. commitments to the Jewish homeland in the area encompassing Jerusalem, contained in additional U.S. law and binding international agreements to which the United States is a party.

The Lodge-Fish Resolution (1922) signed into law by then-President Warren Harding, approved the establishment of the Jewish homeland in Palestine.<sup>14</sup> Palestine was a geographical area encompassing Jerusalem. (Palestine was never a country.)

The 1924 Anglo-American Convention (Treaty) confirmed the League of Nations Mandate, designating the area that is now Israel including Jerusalem and Judea/Samaria (and the area of present-day Jordan) as a “*sacred trust*” for reconstituting the Jewish homeland. The

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<sup>12</sup> Statement of Senator Bob Dole, Oct. 24, 1995, *supra*, p. S-15531-15532.

<sup>13</sup> Foreign Relations Authorization Act, FY 2003, H.R. 1646, 107th Cong. (2001) (Sept. 30, 2002), § 214, at <https://www.govtrack.us/congress/bills/107/hr1646/text> .

<sup>14</sup> “*Joint Resolution Favoring the Establishment in Palestine of a National Home for the Jewish People*” (Lodge-Fish Resolution), H. J. Res. 73, 67th Cong., Pub. Res. 67–73, Sept. 21, 1922, 42 Stat. 1012 (enacted), at <http://legisworks.org/congress/67/pubres-73.pdf>.

Convention was ratified by the U.S. President and Senate in 1925, making it a binding U.S. treaty obligation.<sup>15</sup>

UN Charter Article 80<sup>16</sup> (the “Jewish people’s clause), adopted in 1945, to which the United States is a party, preserved intact all rights granted to Jews under the League of Nations’ Mandate for Palestine, even after the Mandate’s expiration in 1948. As legal scholar Howard Grief has explained, Article 80 prevents the UN from transferring rights over any part of Palestine to any non-Jewish entity, such as the Palestinian Authority or a “Palestinian state.”<sup>17</sup>

#### **(d) There is No Lawful Impairment to the Embassy Move**

Further, there is no U.S. law or binding international law that impairs Israel’s right to Jerusalem, or that impairs her right to maintain her capital in Jerusalem. The 1947 UN “Partition Resolution” was a mere *non-binding recommendation* (and subject to a vote by Jerusalem’s residents as to Jerusalem’s status after ten years).<sup>18</sup> The recommendation was rejected by the Arabs, and thus did not become an internationally binding agreement or treaty.

The 1949 ceasefire lines (also known as the “1949 Armistice Demarcation Lines” or the “Green Line” or “pre-1967 lines”) were non-binding. The lines merely marked approximately where the fighting stopped in 1949 after six Arab nations invaded Israel, and Jordan illegally seized the eastern portion of Jerusalem – containing the Old City, Jewish Quarter, Judaism’s holiest sites, and Jewish cultural and academic institutions. The eastern portion of Jerusalem is the Jerusalem of the Bible and history. Israel and her neighbors specifically agreed that these lines were “*without prejudice to an ultimate political settlement between the parties.*”<sup>19</sup>

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<sup>15</sup> “*Convention Between the United States and Great Britain in Respect to Rights in Palestine,*” (Anglo-American Convention of 1924), Signed Dec. 3, 1924, Ratified advised by U.S. Senate Feb. 20, 1925, ratified by U.S. President, Mar. 2, 1925, ratified by Great Britain, Mar. 18, 1925, ratifications exchanged at London, Dec. 3, 1925; proclaimed Dec. 5, 1925, at

<http://www.alliedpowersholocaust.org/wp-content/uploads/2015/03/1924-Anglo-American-Convention.pdf>.

<sup>16</sup> Charter of the United Nations, Chapter XII: International Trusteeship System, Article 80, at <http://www.un.org/en/sections/un-charter/chapter-xii/index.html>

<sup>17</sup> “*Article 80 and the UN Recognition of a ‘Palestinian State’*,” by Howard Grief, *Algemeiner*, Sept. 22, 2011, at <https://www.algemeiner.com/2011/09/22/article-80-and-the-un-recognition-of-a-“palestinian-state”/>

<sup>18</sup> UN General Assembly Res. 181, Nov. 29, 1947, at <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/un%20general%20assembly%20resolution%20181.aspx>

<sup>19</sup> Israel-Jordan Armistice Agreement, Apr. 3, 1949, Articles II.2, VI.8 and VI.9, at <http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/israel-jordan%20armistice%20agreement.aspx>

The western portions of Israel continued to be under Israeli control throughout Jordan's illegal occupation of eastern Jerusalem (1949-1967). Jerusalem served as Israel's capital from 1950 onwards.

After Israel recaptured the eastern portion of Jerusalem during the defensive Six-Day War in 1967,<sup>20</sup> Israeli sovereignty was restored to a unified Jerusalem. The [Levy Commission](#) (appointed by Israeli Prime Minister Netanyahu and headed by esteemed former Israel Supreme Court Justice Edmund Levy) concluded that when Israel recaptured eastern Jerusalem and Judea/Samaria:

*“the original legal status of the territory was restored, namely, a territory designated as a national home for the Jewish people, who had a “right of possession” to it during Jordanian rule while they were absent from the territory for several years due to a war imposed on them, and have now returned to it.”<sup>21</sup>*

UN Security Council Resolution 242, adopted after the 1967 Six Day War, called for Israel to have “*recognized and secure*” borders, and did *not* call for Israel to surrender “all” lands captured in 1967.<sup>22</sup> The secure borders that Israel is entitled to necessarily include Jerusalem. Then-U.S. President Lyndon Johnson stated shortly after the adoption of Resolution 242:

*“We are not the ones to say where other nations should draw lines between them that will assure each the greatest security. It is clear, however, that a return to the situation of June 4, 1967, will not bring peace.”<sup>23</sup>*

Israel has arguably more than complied with Res. 242 by returning the Sinai to Egypt pursuant to the Israel-Egypt Peace Treaty.

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<sup>20</sup> Jordan attacked Israel in June 1967, even though Israel implored Jordan not to attack, saying: “*we shall not engage ourselves in any action against Jordan, unless Jordan attacks us. Should Jordan attack Israel, we shall go against her with all our might.*” “*Message from Prime Minister Eshkol to King Hussein,*” 5 June 1967, at <http://www.mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook1/Pages/16%20Message%20from%20Prime%20Minister%20Eshkol%20to%20King%20Huss.aspx>.

<sup>21</sup> “*The Levy Commission Report on the Legal Status of Building in Judea and Samaria,*” Jerusalem, June 21, 2012, Tammuz 1, 5772, translated into English by Regavim, 2014, at <http://www.regavim.org/wp-content/uploads/2014/11/The-Levy-Commission-Report-on-the-Legal-Status-of-Building-in-Judea-and-Samaria2.pdf>

<sup>22</sup> UN Security Council Resolution 242, Nov. 22, 1967, at <http://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/UN%20Security%20Council%20Resolution%20242.aspx>

<sup>23</sup> “*Lyndon Johnson Administration: Speech on ‘A Just and Dignified Peace’*,” Sept. 10, 1968, Jewish Virtual Library, at <http://www.jewishvirtuallibrary.org/president-johnson-speech-on-ldquo-a-just-and-dignified-peace-rdquo-september-1968>

Further, the 1994 Israel-Jordan Peace Treaty recognized the Jordan River (not the “green line”) as the international boundary between Jordan and Israel.<sup>24</sup> Thus, Jerusalem is on the Israeli side of the agreed-to border. The Israel-Jordan Peace Treaty merely respects Jordan’s “*special role . . . in Muslim Holy shrines in Jerusalem.*”<sup>25</sup>

The Oslo Accords (1993-1995), signed by the PLO and Israel, do not grant any rights to Jerusalem to the PLO - and *never* spoke of a Palestinian Arab state. In Prime Minister Rabin’s last speech to the Knesset, he explained that the contemplated “permanent solution” with the PLO would involve establishing a Palestinian Arab entity that was “*less than a State*” that governed the lives of Palestinian Arabs, and no giveaway of any part of united Jerusalem. “*First and foremost,*” Jerusalem would remain united under Israeli sovereignty.<sup>26</sup>

Further, the United Nations does not have the power to make or interpret international law, or to render Israel’s sovereignty over unified Jerusalem “illegal,” via UN Security Resolution 2334

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<sup>24</sup> *Treaty of Peace Between The State Of Israel And The Hashemite Kingdom Of Jordan*, 26 Oct 1994, Article 3 and Annex I, available at <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israel-jordan%20peace%20treaty.aspx> (Article 3) and <http://www.mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/Israel-Jordan%20Peace%20Treaty%20Annex%20I.aspx> (Annex I)

<sup>25</sup> *Id.*, Article 9.2

<sup>26</sup> *Prime Minister Yitzhak Rabin: Ratification of the Israel-Palestinian Interim Agreement*, The Knesset, October 5, 1995, Israel Ministry of Public Affairs Archive, at <http://mfa.gov.il/MFA/MFA-Archive/1995/Pages/PM%20Rabin%20in%20Knesset-%20Ratification%20of%20Interim%20Agree.aspx> Rabin’s statement contemplated that the ultimate result of “Oslo process” negotiations, saying: “*We view the permanent solution in the framework of State of Israel which will include most of the area of the Land of Israel as it was under the rule of the British Mandate, and alongside it a Palestinian entity which will be a home to most of the Palestinian residents living in the Gaza Strip and the West Bank. We would like this to be an entity which is less than a state, and which will independently run the lives of the Palestinians under its authority. The borders of the State of Israel, during the permanent solution, will be beyond the lines which existed before the Six Day War. We will not return to the 4 June 1967 lines. . . . [W]e envision and want in the permanent solution: A. First and foremost, united Jerusalem, which will include both Ma'ale Adumim and Givat Ze'ev -- as the capital of Israel, under Israeli sovereignty, while preserving the rights of the members of the other faiths, Christianity and Islam, to freedom of access and freedom of worship in their holy places, according to the customs of their faiths. . . .*”

(2016)<sup>27</sup> or other UN resolutions which sought to delegitimize Israel's reunification of Jerusalem.<sup>28</sup>

**(e) Moving the U.S. Embassy to Jerusalem comports with the commitments and policies of the major U.S. political parties, top elected officials and the American public's views**

The major U.S. political party platforms and statements are committed to moving the U.S. embassy to Jerusalem, or at the very least, having Jerusalem remain as a united city and the capital of Israel. No major U.S. party platform calls for the division of Jerusalem, or for Jerusalem to be recognized as the capital of any state other than Israel.

The 2016 Republican Party platform clearly called for the U.S. Embassy to be moved to Jerusalem, stating:

*"We recognize Jerusalem as the eternal and indivisible capital of the Jewish state and call for the American embassy to be moved there in fulfillment of U.S. law."<sup>29</sup>*

Likewise, then candidate Trump declared in March 2016:

*"We will move the American embassy to the eternal capital of the Jewish people, Jerusalem."<sup>30</sup>*

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<sup>27</sup> See "Leading Int'l Legal Scholar Kontorovich Emphasizes at ZOA Event: US Embassy Should Move to Jerusalem," ZOA News Release, Jan. 23, 2017, at <https://zoa.org/2017/01/10350197-leading-intl-legal-scholar-kontorovich-emphasizes-at-zoa-event-us-embassy-should-move-to-jerusalem/> Professor Kontorovich will be testifying on the same panel today.

<sup>28</sup> These include UN General Assembly ("GA") Res. 2253 (1967); UNGA Res. 2254 (1967); UN Security Council ("SC") Res. 252 (1968); UNSC Res. 267 (1969); and UNSC Res. 478 (1980). Professor Malvina Halberstam explains that: "Notwithstanding these and other resolutions by the General Assembly and Security Council, moving the US Embassy to Jerusalem would not violate international law. The UN Charter does not give the General Assembly the authority to adopt binding resolutions. Its resolutions are recommendations which States are free to accept or reject. The Security Council does have the authority to adopt resolutions that are legally binding. However, only resolutions adopted under Chapter VII of the Charter are binding. None of these resolutions were adopted under Chapter VII, and are, therefore, not binding." "Moving the US Embassy from Tel Aviv to Jerusalem: An Analysis and Discussion of U.S., Israeli and International Law," by Prof. Malvina Halberstam, Esq., Israel Nat'l News, reprinted on ZOA website, May 23, 2017, at <https://zoa.org/2017/05/10363858-jewish-prayer-on-har-habayit-whats-the-status-quo-and-should-it-be-changed/>

<sup>29</sup> 2016 Republican Party Platform, p. 47, at [https://prod-cdn-static.gop.com/media/documents/DRAFT\\_12\\_FINAL\[1\]-ben\\_1468872234.pdf](https://prod-cdn-static.gop.com/media/documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf)

<sup>30</sup> "Donald Trump's Speech to AIPAC" transcript, Time Mag., Mar. 21, 2016, at <http://time.com/4267058/donald-trump-aipac-speech-transcript/>

The Trump campaign's policy platform also unconditionally reaffirmed:

*"The U.S. will recognize Jerusalem as the eternal and indivisible capital of the Jewish state and Mr. Trump's Administration will move the U.S. embassy to Jerusalem."*<sup>31</sup>

The 2016 Democratic Party Platform confirmed that Jerusalem should remain Israel's capital and undivided, stating:

*"While Jerusalem is a matter for final status negotiations, it should remain the capital of Israel, an undivided city accessible to people of all faiths."*<sup>32</sup>

Last month, the Senate Democratic Minority Leader, Senator Chuck Schumer renewed a call for the American embassy to be moved to Jerusalem saying:

*"As someone who strongly believes that Jerusalem is the undivided capital of Israel, I am calling for the U.S. Embassy in Israel to be relocated to Jerusalem. Moving the embassy as soon as possible would appropriately commemorate the fiftieth anniversary of Jerusalem's reunification and show the world that the U.S. definitively acknowledges Jerusalem as Israel's capital."*<sup>33</sup>

The American public overwhelmingly supports Jerusalem as the undivided capital of Israel. In the 2014 McLaughlin & Associates poll, in response to the question, *"Do you believe that Jerusalem should remain the undivided capital of Israel?"*, a clear majority of 55% of Americans replied that Jerusalem should remain the undivided capital of Israel, as opposed to a mere 13% who believe it should not.<sup>34</sup> That is over a 4 to 1 ratio in favor of Jerusalem remaining as Israel's undivided capital.

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<sup>31</sup> *"Joint Statement from Jason Dov Greenblatt and David Friedman, Co-Chairmen of the Israel Advisory Committee to Donald J. Trump,"* – Compendium of Positions Confirmed with Donald Trump, Medium, Nov. 2, 2016, at <https://medium.com/@jgreenblatt/joint-statement-from-jason-dov-greenblatt-and-david-friedman-co-chairmen-of-the-israel-advisory-edc1ec50b7a8>.

<sup>32</sup> 2016 Democratic Party Platform, at [http://s3.amazonaws.com/uploads.democrats.org/Downloads/2016 DNC Platform.pdf](http://s3.amazonaws.com/uploads.democrats.org/Downloads/2016_DNC_Platform.pdf)

<sup>33</sup> *"Schumer Renews Call for Embassy Move After Trump Puts Idea on Hold,"* JTA, Oct. 10, 2017, at <https://www.jta.org/2017/10/10/news-opinion/politics/schumer-renews-call-for-embassy-move-after-trump-says-give-peace-bid-a-chance>

<sup>34</sup> McLaughlin & Associates: *"ZOA Release Of New Poll: Americans Show Overwhelming Support For Israeli Positions — Oppose Obama's Positions,"* Jan. 28, 2014, at <http://mclaughlinonline.com/2014/01/28/new-poll-americans-show-overwhelming-support-for-israeli-positions-oppose-obamas-positions/>

In mid-May, sixty top Christian leaders sent a letter to the president, organized by American Christian Leaders for Israel (ACLI), urging the president to end the waivers and move the American embassy to Jerusalem.<sup>35</sup>

**2. Moving the U.S. Embassy acknowledges reality (and will be more convenient for U.S. Government personnel):**

Relocating the American embassy to Jerusalem would acknowledge the reality that Jerusalem is and has been the reconstituted State of Israel's capital and seat of government for almost 70 years.

The Jerusalem Embassy Act of 1995 found that the U.S. has already de facto recognized Jerusalem as Israel's capital, saying: "*The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.*"<sup>36</sup>

It is not surprising that official U.S. government business is regularly conducted in Jerusalem, and that relocating the embassy will be far more convenient and practical for U.S. embassy personnel: As the Jerusalem Embassy Act found: "*The city of Jerusalem is the seat of Israel's President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.*"<sup>37</sup> Twenty-three out of Israel's twenty-six ministries, plus most other national government offices are all located in Jerusalem.<sup>38</sup>

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<sup>35</sup> See, e.g., "Trump's Evangelical Supporters Disappointed About Israel Embassy Decision," by Adelle M. Banks, Religion News Service, National Catholic Reporter, Jun 1, 2017, at <https://www.ncronline.org/news/politics/trumps-evangelical-supporters-disappointed-about-israel-embassy-decision>

<sup>36</sup> Jerusalem Embassy Act of 1995, *supra*, § 2.(16).

<sup>37</sup> *Id.*, § 2.(3).

<sup>38</sup> Israel's government ministries are listed by the Israel Ministry of Foreign Affairs, at <http://www.mfa.gov.il/mfa/aboutisrael/state/government/pages/israel%20government%20ministries.aspx>. The ministries' and government offices' addresses are listed at: <http://www.mfa.gov.il/MFA/AboutIsrael/State/Government/Pages/Addresses-%20Telephone%20and%20Fax%20Numbers%20of%20Government.aspx> Israel's ministries located in Jerusalem include the: Ministry of Communications; Ministry of Construction and Housing; Ministry of Culture and Sport; Ministry of Education; Ministry of Energy and Water Resources; Ministry of Environmental Protection; Ministry of Finance; Ministry of Foreign Affairs; Ministry of Health; Ministry of Immigrant Absorption; Ministry of Industry, Trade and Labor; Ministry of Intelligence Affairs; Ministry of the Interior; Ministry of Justice; Ministry for Pensioners' Affairs; Ministry of Diaspora Affairs; Ministry of Public Security; Ministry of Religious Services; Ministry of Science and Technology; Ministry of Social Affairs; Ministry of Strategic Affairs; Ministry of Tourism; and Ministry of Transport, National Infrastructures and Road Safety. Additional Israeli government institutions located in Jerusalem include the: Bank of Israel; Central Bureau of Statistics; Chief Rabbinate of Israel; Civil Service Commission;

### **3. Jerusalem is the Jewish People's Eternal Historic, Religious and Spiritual Capital. By Contrast, Jerusalem was Largely Ignored by Islam**

Relocating the embassy to Jerusalem also acknowledges the reality that Jerusalem is and has been the Jewish people's historic and spiritual capital for over 3,000 years. Jerusalem is the capital of historic Jewish kingdoms; the site of Judaism's holiest sites; and central to Jewish prayer, including the famous Psalm "*If I forget you, oh Jerusalem, let me forget my own right hand*"<sup>39</sup>; the conclusion of every Passover Seder and the Judaism's holiest day of the year, Yom Kippur, with "Next year in Jerusalem!"; and daily prayers for Jerusalem.

The Jerusalem Embassy Act confirms that:

*"(4) The city of Jerusalem is the spiritual center of Judaism . . . and is also considered a holy city by the members of other religious faiths. . . .*

[and]

*(17) In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David's entry."*<sup>40</sup>

Jerusalem was the capital of the Jewish nation under King David and other Jewish kings, for hundreds of years.

By contrast, Jerusalem was never the capital of any other nation. After the Arab conquest of Israel in 716 CE, the Arabs made Ramla their capital – *not* Jerusalem. Jerusalem has moreover never been a Palestinian Arab capital; indeed, there has never been a Palestinian Arab state.

Jerusalem is also the Jewish people's holiest city. Jerusalem's Old City (in the eastern portion of Jerusalem, the real Jerusalem) contains the millennia old Jewish Quarter and Judaism's holiest site, the Temple Mount where the First and Second Jewish Temples stood, long before the birth of Islam. And eastern Jerusalem also contains the world's oldest and largest (3,000 years-old) Jewish cemetery on the Mount of Olives. (Eastern Jerusalem is the real Jerusalem throughout Biblical and human history; Western Jerusalem was built in recent years.)

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Council for Higher Education; Israel Academy of Sciences and Humanities; Israel Broadcasting Authority; Israel Land Administration; Israel Police; Knesset; Knesset Members' Offices; Law Courts; National Authority of Religious Services; National Insurance Institute; Office of the Chief Scientist; Postal Authority; Prime Minister's Office; and State Comptroller and Public Complaints Commissioner/Ombudsman.

<sup>39</sup> Psalm 137, verse 5, at [http://www.chabad.org/library/bible\\_cdo/aid/16358/jewish/Chapter-137.htm](http://www.chabad.org/library/bible_cdo/aid/16358/jewish/Chapter-137.htm)

<sup>40</sup> Jerusalem Embassy Act of 1995, *supra*, § 2.(14) and (17).

Jerusalem is spoken of with reverence almost 700 times in the Torah, the Jewish holy books. Jerusalem is never mentioned in the Koran – not even once.

Throughout the millennia, Jews always pray *for* Jerusalem 20 times each day, remember Jerusalem in holiday and wedding ceremonies, and pray facing Jerusalem. By contrast, Muslims pray facing Mecca. There are *no* Muslim prayers for Jerusalem.

Muslims make their pilgrimages to Mecca; while Jewish pilgrimages are to Jerusalem. One of the five pillars of Islam (the five obligatory fundamental Muslim practices) is the “Hajj” pilgrimage to the Kaaba in Mecca, Saudi Arabia. The Torah commands the Jewish people to make pilgrimages to the Temple in Jerusalem three times each year, on Judaism’s three pilgrimage festivals (Passover, Shavuot and Sukkot).

Jews have lived in Jerusalem throughout the millennia. Since at least the mid-1800s, the majority of the people living in Jerusalem were Jews. Theodore Herzl wrote in his diary about his arrival in Jerusalem on the evening of October 31, 1898: “*The streets were alive with Jews sauntering in the moonlight.*” The 1907 prestigious Baedekers’ Travel Guide reported that at that time, Jerusalem had 40,000 Jews; 13,000 Christians and 7,000 Muslims.

Passover celebrates the Jewish people’s freedom from slavery in Egypt, and return to Israel. Matzah eaten at Passover seders symbolizes the poor, broken unleavened bread that Jews ate while escaping from Egypt, to return to Israel. Jews sing at the end of every Passover seder: “*Next year in Jerusalem*” and “*Rebuild the [Jewish] Temple in Jerusalem speedily in our days.*”

Hanukkah celebrates the Jewish Maccabees’ successful battles to free Israel from the Selucids (Syrian-Greeks) and overcome internal traitors (“Hellenists”) who adopted the Greek’s ways; followed by the Maccabees’ rededication of the Jewish Temple in Jerusalem. (The word Hanukkah means “rededication.”).<sup>41</sup>

In an attempt to create an Islamic religious connection to Jerusalem, Muslims point to Koran and *hadith* passages referring to Muhammad’s *dream* (not an actual event) of journeying to heaven on his steed Buraq from the Sacred Mosque in Saudi Arabia to the “farthest mosque.” However, the “farthest mosque” could not possibly have meant Jerusalem because the Koran refers to Palestine as the “nearest” place, and Jerusalem was a central crossroads in the Middle East – *not* a “farthest” place. Moreover, Jerusalem’s eventual “Al Aqsa Mosque” was built long *after* the Koran and the Hadith were written. The mosque was named “Al Aqsa” after the fact, to create a myth about the location of Mohammed’s dream. During Mohammed’s day, Jerusalem was ruled by Byzantine Christians, and a Byzantine Christian church stood on the Temple Mount.

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<sup>41</sup> “*The Story of Chanukah*,” Chabad, at

[http://www.chabad.org/holidays/chanukah/article\\_cdo/aid/102978/jewish/The-Story-of-Chanukah.htm](http://www.chabad.org/holidays/chanukah/article_cdo/aid/102978/jewish/The-Story-of-Chanukah.htm)

So little did Jerusalem mean to the Muslim Ottomans that, during the First World War, they abandoned it to the British without a fight and even contemplated entirely destroying the city before leaving it.

In 1948, six Arab nations invaded Israel, and Jordan captured and illegally occupied the eastern portion of Jerusalem for 19 years (1948-1967). During Jordan's illegal occupation, Jordan demolished 58 centuries-old Jewish synagogues, killed or expelled the Jews, pillaged tombstones of the 3,000-years-old Mount of Olives Jewish cemetery to line latrines, denied Jews access to their holiest religious sites, and harshly discriminated against Christians and churches. Jordan prohibited Christian churches and communities from buying land or opening new schools, required Christian schools to teach the Koran, and refused to allow Christian holidays.

Under Jordanian Arab Muslim rule, Jerusalem became a small isolated town. Arabs abandoned Jerusalem and moved to Amman.

Significantly, neither the Palestinian Liberation Organization (PLO)'s original [National Charter](#) (drafted in 1964, during Jordanian Muslim rule), nor the PLO's 1968 [National Charter](#), nor the Fatah (Arafat's terrorist group) [Constitution](#) even mention Jerusalem, let alone call for its establishment as a Palestinian Arab capital!

During Jordan's 19-year illegal occupation of Jerusalem, Jordan also kept its capital in Amman, built Jordan's first university in Amman, as well as the King's numerous residences and their main mosque, and made its Friday prayer radio broadcasts from Amman – not from Jerusalem. From 1948 to 1967, Amman's population increased to five times its previous size, while Jerusalem's population did not increase at all. Arab leaders did not even bother visiting Jerusalem (with the brief exception of King Hussein). Jordan allowed eastern Jerusalem to fall into disrepair – to become a slum, with virtually no water or plumbing or electricity. This is of course not how an Islamic nation would treat a city that was really holy to Islam.

Tellingly, in the not-so-distant past, Muslims recognized the Temple Mount as the site of the biblical Jewish temples. Thus, the Jerusalem Muslim Supreme Council's publication, '[A Brief Guide to the Haram Al-Sharif](#)' (1925 edition, page 4), states about Jerusalem's Temple Mount that: *"Its identity with the site of Solomon's Temple is beyond dispute. This, too, is the spot, according to the universal belief, on which 'David built there an altar unto the Lord, and offered burnt offerings and peace offerings.'"* (The quotation is from 2 Samuel 24:25.)

The same Muslim publication notes on page 16: *"In the west wall of the chamber, a door opens into a staircase descending to Solomon's stables. This is a vast subterranean chamber . . . It dates probably as far back as the construction of Solomon's Temple. According to Josephus, it was in existence and was used as a place of refuge by the Jews at the time of the conquest of Jerusalem by Titus in the year 70 A.D."* (After 1954, all such references to the biblical Temples were excised from this publication.)

Mideast scholar Prof. Francis Peters of NYU said that Muslims have always regarded Jerusalem “with careless indifference.” There has never even been an important place of Muslim learning built or established there.

However, Leon Uris, famed author of “Exodus” wrote, “Jerusalem has known only two periods of true greatness and these have been separated by 2000 years. Greatness has only happened under Jewish rule. . . Jews have remained constant in their love throughout the centuries. It is the longest and deepest love affair in the history of the world.”

#### **4. The Embassy Relocation Will Enhance U.S. Security:**

The embassy relocation will also strengthen American security and enhance worldwide respect for America by demonstrating that the United States can be counted on to keep her commitments to her allies. The move will demonstrate that America does not allow American policy to be determined by radical Islamist terrorist threats. Succumbing to such Islamist threats begets more threats and more violence, especially in the Middle East, where strength and maintaining one’s honor are the coin of the realm. Concessions to the Palestinian Arabs have consistently led to more violence. Thus, if we want to *reduce* violence in Israel and throughout the Middle East, moving our embassy is the correct path.

We can also couple moving the embassy with additional policies to reduce violence, such as tough legislation to stop the Palestinian Authority (PA)’s unconscionable “pay to slay” payments to terrorists to murder Jews and Americans, and pushing for the removal of Hamas and Fatah social media pages inciting the murder of innocent Jews and Christians.

#### **5. The Embassy Move Will Help – And Not Harm Any Peace Prospects**

Relocating the American embassy to Jerusalem will not harm a peace process. Rather, as then-candidate Trump correctly explained:

***“[W]hen the United States stands with Israel, the chances of peace really rise and rises exponentially. That’s what will happen when Donald Trump is president of the United States. We will move the American embassy to the eternal capital of the Jewish people, Jerusalem.”***<sup>42</sup>

Among other things, moving the embassy will help peace prospects by diminishing the fantasy that Jerusalem is on the chopping block.

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<sup>42</sup> “Donald Trump’s Speech to AIPAC” transcript, Time Mag., Mar. 21, 2016, at <http://time.com/4267058/donald-trump-aipac-speech-transcript/>

Indeed, Israel's government has reportedly argued to the U.S. administration that relocating the embassy would "*force the Arabs and Palestinians to wake up from a long-harbored fantasy that they could disassociate Israel and the Jewish people from Jerusalem.*"<sup>43</sup>

Even though the embassy has not been moved since Israel's re-establishment, the prospects for the peace are dimmer than they were in 1995. That is because the impediments to peace have nothing to do with the location of the U.S. embassy. The impediments to peace are the Palestinian Authority's incitement of violence and hatred against Jews and others; payments to terrorists to murder Jews and Americans; and unwillingness to recognize a Jewish state in any shape of form.

Further, failing to move the American embassy propagates the Arab propaganda myth that peace would result if Israel agreed to divide Jerusalem. Dividing Jerusalem was previously tried and failed. There was no peace when Jordan illegally occupied the eastern portion of Jerusalem for 19 years (1948-1967); Jordanian snipers regularly shot Israelis walking to school or work.

The argument that moving the embassy could interfere with a peace process was properly rejected when the Jerusalem Embassy Act was enacted twenty-two years ago, and deserves no credence today. As then-Senator Biden stated during the Congressional hearings in 1995:

*"[T]he only way there will be peace in the Middle East is for the Arabs to know there is no division between the United States and Israel--none, zero, none. . . . As the Israelis and Palestinians begin the final status negotiations . . . it should be clear to all that the United States stands squarely behind Israel, our close friend and ally. **Moving the U.S. Embassy to Jerusalem will send the right signal, not a destructive signal.** To do less would be to play into the hands of those who will try their hardest to deny Israel the full attributes of statehood."*<sup>44</sup>

Senator Dole, who introduced the Jerusalem Embassy Act along with Senators Moynihan, Kyl, Inouye, and 61 other colleagues, likewise explained that

*"This legislation is not about the peace process, it is about recognizing Israel's capital. **Israel's capital is not on the table in the peace process,** and moving the United States*

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<sup>43</sup> "White House Announces 'Postponement' Of Jerusalem Embassy Move," by Michael Wilner & Herb Keinon, Jerusalem Post, June 1, 2017, at <http://www.ipost.com/Israel-News/Trump-renege-on-campaign-pledge-signs-waiver-to-maintain-US-embassy-in-Tel-Aviv-494445>

<sup>44</sup> Statement of Senator Joe Biden, Cong. Record Vol. 141, No. 165, Oct. 24, 1995 (Senate), p. S-15527, at <https://www.gpo.gov/fdsys/pkg/CREC-1995-10-24/html/CREC-1995-10-24-pt1-PgS15522.htm>

*Embassy to Jerusalem does nothing to prejudge the outcome of any future negotiations.”<sup>45</sup>*

Then-Senator Carl Levin (D-MI), a Jerusalem Embassy Act co-sponsor, also noted:

***“It will not help the peace process for there to be any ambiguity about where Israel's capital is. Our action today will help to eliminate any such ambiguity and to make it clear to all concerned that this country is finally going to do in Israel what we have done in every single country in the world, which is to place our Embassy in the capital city.”<sup>46</sup>***

Significantly, then-Israeli Deputy Foreign Minister Yossi Beilin, the far leftwing architect of the Oslo accord peace process – who was dedicated to the peace process and in an ideal position to know what would harm such a process – clearly explained that moving the embassy should occur *“the earlier the better,”* and that this would not hurt the peace process, noting:

*“Israel is the only nation in the world that doesn't have a recognized capital and I am not prepared to accept that if Israel has a recognized capital this will affect the negotiations.”<sup>47</sup>*

It is now twenty-four years after the Oslo accords – and the prospect of achieving real peace with the Palestinian Authority is dimmer than ever, and likely non-existent. Recent events bear this out: The Palestinian Authority first lied to President Trump and then vehemently rejected President Trump’s reasonable demands to end the PA’s unconscionable “pay to slay” payments.<sup>48</sup> The PA continues to preach hatred and violence against Jews and Christians in

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<sup>45</sup> Statement of Senator Robert Dole, Cong. Record, Vol. 141, No. 165, Oct. 24, 1995 (Senate), pp. S15522-S15535, at <https://www.gpo.gov/fdsys/pkg/CREC-1995-10-24/html/CREC-1995-10-24-pt1-PgS15522.htm>

<sup>46</sup> Statement of Senator Carl Levin, Cong. Record, Vol. 141, No. 165, Oct. 24, 1995 (Senate), p. S-15534, at <https://www.gpo.gov/fdsys/pkg/CREC-1995-10-24/html/CREC-1995-10-24-pt1-PgS15522.htm>

<sup>47</sup> Yossi Beilin on Legislation to Move the United States Embassy to Jerusalem, Press conference with Israeli journalists, Oct. 12, 1995, reprinted in Cong. Record Vol. 141, No. 165, Oct. 24, 1995 (Senate), pp. S15522-S15535, at <https://www.gpo.gov/fdsys/pkg/CREC-1995-10-24/html/CREC-1995-10-24-pt1-PgS15522.htm>, pp. S 11528, S 15531.

<sup>48</sup> See *“P.A.’s Abbas Lies to Trump that P.A. Teaches ‘Culture of Peace’ – But PA Pays Salaries to Terrorists,”* ZOA News Release, May 8, 2017, <https://zoa.org/2017/05/10362016-p-as-abbas-monstrous-lie-to-trump-p-a-instills-culture-of-peace-while-paying-salaries-to-terrorists/>; *“PMW Special Report: The PA’s Billion Dollar Fraud: The PA’s Claim That It No Longer Pays Salaries To Terrorist Prisoners Is False,”* Palestinian Media Watch, April 27, 2017, at <http://palwatch.org/STORAGE/special%20reports/PMW%20report,%20PA%20billion%20dollar%20fraud,%20270416.pdf>; *“ZOA: PA’s Abbas Lied to Sec’y Tillerson – They Still Pay Arabs to Murder Jews,”* ZOA News Release, June 15, 2017 (with citations), at

schools, government controlled mosques and via all forms of media.<sup>49</sup> It is impossible to achieve peace with a Palestinian Arab entity that pays terrorists and teaches its school children to kill innocent Jews and Americans. The Palestinian Authority's maps, school atlases, official stationary and ruling party Fatah's emblem all show "Palestine" covering all of Israel. The PA continues to glorify Jew-killing terrorists by naming schools, streets, sports teams, children's camps and athletic teams after the terrorists.

Further, the PA entered into a reconciliation pact with designated foreign terrorist organization Hamas, which permits both Hamas or Fatah (the PA's governing political party) to continue terror.<sup>50</sup> And the PA is now demanding that the British government renounce and apologize for the Balfour Declaration.<sup>51</sup> As Jerusalem Post senior editor Caroline Glick succinctly put it, the Palestinian Arabs "*have not moved an inch in a hundred years.*"<sup>52</sup>

In light of the long and ongoing history of Palestinian-Arab rejectionist "resistance" to peace, aren't the 69 years that have passed since Jerusalem became modern Israel's capital long enough to wait before we recognize this reality and move our embassy to Jerusalem?

## **6. Moving the U.S. Embassy to Jerusalem Will End the Discrimination Against the Only Jewish State in the World.**

The U.S. embassy is in the capital of every other nation with which the U.S. has diplomatic relations. The Jerusalem Embassy Act of 1995 criticized this disparity, stating: "*The United*

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<https://zoa.org/2017/06/10366373-zoa-pas-abbas-lied-to-secy-tillerson-they-still-pay-arabs-to-murder-jews/>

<sup>49</sup> See, e.g., "*Palestinian Elementary School Curriculum 2016–17: Radicalization and Revival of the PLO Program*," by Eldad J. Pardo, Hebrew University, April 2017, at <http://www.impact-se.org/wp-content/uploads/PA-Curriculum-2017-Revised.pdf>. (Hebrew University study reproducing page after page of the vicious anti-Semitic, anti-Israel statements found in PA textbooks at every grade level and for every subject, teaching "*a strategy of violence and pressure . . . Children are expendable ... [S]ystematic hatred of all things Jewish/Israeli ... Palestinian students vow to 'saturate the 'generous' land' with their blood. Each student recites: 'I vow I shall sacrifice my blood ... will remove/eliminate the usurper from my country, and will annihilate the remnants of the foreigners.' There is apparently no restriction on violence until the last Israeli is out of Palestine.*" Even math problems in the PA's math textbooks are based on numbers of "martyrs" to teach Arab children to "martyr" themselves to kill Jews.)

<sup>50</sup> "*Fatah Seeks 'True Partnership' with Hamas; Neither Will Give Up Violence*," by Itamar Marcus & Nan Jacques Zilberdik, PMW, Oct. 24, 2017 (quoting Fatah Central Committee officials Jibril Rajoub and Azzam Al-Ahmad) at [http://www.palwatch.org/main.aspx?fi=157&doc\\_id=24054](http://www.palwatch.org/main.aspx?fi=157&doc_id=24054)

<sup>51</sup> "*Column One: Balfour's Greatest of Gifts*," by Caroline B. Glick, Jerusalem Post, Oct. 27, 2017, at <http://www.jpost.com/Opinion/COLUMN-ONE-Balfours-greatest-of-gifts-508602>

<sup>52</sup> *Id.*

*States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.”*<sup>53</sup>

Relocating the embassy will end the anomaly that Israel is the only country in the world in which the U.S. embassy is not located in the host nation’s capital. The move will thus send a valuable message that Jews and the sole Jewish state are not second-class citizens – a message that will help combat anti-Semitism, and strengthen our bond with our key ally Israel. This will carry out the policy announced by then-candidate Trump in March 2016: *“When I become president, the days of treating Israel like a second-class citizen will end on day one.”*<sup>54</sup>

The equitable concept that Jews and Israel should be accorded the same rights as other people and nations was also expressed long before President Trump’s statement. In 1819, our nation’s second president, John Adams (1797-1801), wrote letters to American-Jewish diplomat Mordecai Manuel Noah, stating:

*“I wish your nation may be admitted to all the privileges of citizens in every part of the world. This country (America) has done much; I wish it may do more and annul every narrow idea in religion, government, and commerce.”*

and

*“I really wish the Jews again in Judea, an independent nation . . .”*<sup>55</sup>

In 1984, Democratic then-Congressman (and ranking Democrat on the Europe and Middle East Subcommittee of the House Foreign Affairs Committee) Tom Lantos (D-CA) pointed out that our embassy is located in the capital city of 135 out of 136 countries with whom the U.S. maintains diplomatic relations (today the number of countries is closer to 200), and that the Jewish state of Israel is the only exception, and described the bipartisan Congressional support for moving our embassy to Jerusalem. Congressman Lantos stated

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<sup>53</sup> Jerusalem Embassy Act of 1995, *supra*, § 2.(15).

<sup>54</sup> *“Donald Trump’s Speech to AIPAC”* transcript, Time Mag., Mar. 21, 2016, at

<http://time.com/4267058/donald-trump-aipac-speech-transcript/>

<sup>55</sup> *“John Adams Spoke as a Friend of Zionism and a Foe of Slavery,”* A. H. Sakier, New York Times letters, Dec. 20, 1986 (quoting republication of Adams’ letters in *“A Century of U.S. Aliya,”* pub.

Association of Americans and Canadians in Israel, 1961). *See also “The Selected Writings of Mordecai Noah,”* edited by Michael Schuldiner and Daniel J. Kleinfeld, Discourse on the

Restoration of the Jews, Greenwood Press, 1999, p. 127, at

<https://books.google.co.il/books?id=Rp7F78jM9kcC&pg=PA127&lpg=PA127&dq=john+adams+I+wish+your+nation+may+be+admitted+to+all+the+privileges+of+citizens+in+every+part+of+the+world.&source=bl&ots=t1m7ajAX7h&sig=W3D15qub8SzdRAmtbg1jx7GeW2s&hl=en&sa=X&ved=0ahUKewiLp4a75aHXAhXDfRoKHfYIAAcQ6AEIjAD#v=onepage&q=john%20adams%20I%20wish%20your%20nation%20may%20be%20admitted%20to%20all%20the%20privileges%20of%20citizens%20in%20every%20part%20of%20the%20world.&f=false>

*“The time has come for us to take a clear and unequivocal stand on the issue of equal treatment. The time has come for us to abandon the discriminatory double standard we have observed toward Israel and locate our embassy in Israel’s capital -- Jerusalem.”*<sup>56</sup>

Sadly, over three more decades have passed since those words were written, and still Israel is being accorded discriminatory treatment.

Congressman Lantos also noted that the U.S. has located its embassy in a foreign nation’s capital even where there was no formal recognition of that capital. Congressman Lantos explained that even though the United States did not recognize East Germany’s claim to East Berlin, the U.S. nevertheless located the U.S. embassy for East Germany in East Berlin. Rep. Lantos commented:

*“If we are broadminded enough to enunciate and observe this rational principle for dealing with a communist dictatorship, should we not follow that same rational principle in dealing with a democratic ally?”*<sup>57</sup>

A decade later, during the Congressional hearings for the Jerusalem Embassy Act, then-Senator Charles Robb (D-VA) expressed concern over the unequal treatment accorded to Israel, saying:

*“Among the 184 countries we maintain diplomatic relations with, Israel is the single exception to the rule of locating the United States chancery in the designated capital of each foreign nation. We have a responsibility to respect the decisions of where all countries locate their seat of government, and Israel should not be viewed in a different light.”*<sup>58</sup>

By ending this disparity, and relocating the U.S. Embassy to Jerusalem, the U.S. will send a valuable message that Jews and the sole Jewish state are not second-class citizens. That message will help combat anti-Semitism, and strengthen our bond with our key ally Israel. Relocating the embassy will thus carry out the policy announced by then-candidate Trump in March 2016: *“When I become president, the days of treating Israel like a second-class citizen will end on day one.”*<sup>59</sup>

## **7. Relocating the U.S. Embassy Will Protect Religious Freedom:**

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<sup>56</sup> *“Embassies in Capital Cities,”* by Rep. Tom Lantos (D) of California is the. Christian Science Monitor, June 20, 1984, at <https://www.csmonitor.com/1984/0620/062011.html>

<sup>57</sup> *Id.*

<sup>58</sup> Statement of Senator Charles Robb, Cong. Record, Vol. 141, No. 165, Oct. 24, 1995 (Senate), p. S-15523, at <https://www.gpo.gov/fdsys/pkg/CREC-1995-10-24/html/CREC-1995-10-24-pt1-PgS15522.htm>

<sup>59</sup> *“Donald Trump’s Speech to AIPAC”* transcript, Time Mag., Mar. 21, 2016, at <http://time.com/4267058/donald-trump-aipac-speech-transcript/>

Relocating the U.S. Embassy will also protect the cherished American value and universal human right of international religious freedom – a Trump Administration foreign policy priority which was the subject of a hearing in this Committee just last month.<sup>60</sup>

Only under Israeli sovereignty are persons of all faiths been guaranteed – both in practice as well as by law – religious freedom and access to their holy sites and places of worship in Jerusalem.

By contrast, when Jordan captured and illegally occupied the eastern portion of Jerusalem from 1948-1967, Jordan demolished 58 centuries-old Jewish synagogues; killed or expelled the Jews in the Jewish Quarter of Jerusalem; pillaged tombstones of the world's oldest (3000 years old) Jewish cemetery to line roads and latrines.<sup>61</sup> Jordan set up barbed wire fences and machine gun nests through the heart of Jerusalem to completely deny Jews access to the holiest Jewish sites including the Temple Mount, and to almost always deny Israeli Christians access to their holy sites in the Old City as well.

And as former Congressman Tom Lantos explained:

*“[D]uring 19 years of Jordanian rule, Jews were denied access to the Western Wall, their holiest of shrines. The area around it was allowed to deteriorate into a slum. Even Christian and Muslim citizens of Israel were not allowed to visit any of their holy places while Jordan controlled East Jerusalem.”<sup>62</sup>*

Jordan did all this in violation of the Israeli-Jordan armistice agreement, which required Jordan to provide Israelis with free access to their religious holy sites and to the Mount of Olives cemetery.<sup>63</sup>

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<sup>60</sup> “Review of the U.S. Government’s Role in Protecting International Religious Freedom,” Subcommittee on National Security, Hearing date: Oct. 11, 2017 10:00 AM, 2154 Rayburn, at <https://oversight.house.gov/hearing/review-u-s-governments-role-protecting-international-religious-freedom/>

<sup>61</sup> “Jordanian Desecration of Mount of Olives Cemetery Described,” JTA, July 5, 1967, at <https://www.jta.org/1967/07/05/archive/jordanian-desecration-of-mount-of-olives-cemetery-described>

<sup>62</sup> “Embassies in Capital Cities,” by Tom Lantos, Christian Science Monitor, June 20, 1984, at <https://www.csmonitor.com/1984/0620/062011.html>

<sup>63</sup> Israel-Jordan Armistice Agreement, Apr. 3, 1949 (available at <http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/israel-jordan%20armistice%20agreement.aspx>), Article VIII.2, required Jordan to provide “resumption of the normal functioning of the cultural and humanitarian institutions on Mount Scopus and free access thereto; [and] free access to the Holy Places and cultural institutions and use of the cemetery on the Mount of Olives.”

During the same period, Jordan also harshly discriminated against Christians and churches in eastern Jerusalem. Jordan undertook to Islamize the Christian quarter in the Old City of Jerusalem; prohibited Christian churches and communities from buying land and houses; required Christian schools to teach the Koran, refused to allow Christian holidays; ordered the compulsory closure of schools on Muslim holidays; and authorized mosques to be built near churches, thus preventing any possibility of enlargement.<sup>64</sup>

The Jerusalem Embassy Act's findings succinctly confirm this history of Jordan's denial of religious access, and Israel's respect for and protect of the rights of all faiths, as follows:

*"(5) From 1948-1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.*

*(6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.*

*(7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.*

*(8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected."*<sup>65</sup>

If the eastern portion of Jerusalem was surrendered to a Palestinian Arab state, religious repression would reign as it did under Jordan's illegal occupation. **PA President Mahmoud Abbas openly states that "in a final resolution, we would not see the presence of a single Israeli, civilian or soldier, on our land."**<sup>66</sup> Jews would be cut off from their holiest places, including the Western Wall – which are located in the old city of Jerusalem.

Jewish sites in PA-controlled territory have already become virtually inaccessible to Jews. Palestinian Arabs (and PA police) have thrown rocks and Molotov cocktails, committed arson, and murdered worshipers and Israeli soldiers protecting worshipers at Joseph's Tomb, the burial place of the Jewish patriarch Joseph, which is in PA-controlled territory.<sup>67</sup>

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<sup>64</sup> *"The Beleaguered Christians of the Palestinian-Controlled Areas,"* by David Raab, Jerusalem Center for Public Affairs (citing Yehoshua Porath, *The Palestinian Arab National Movement, 1929-1939: From Riots to Rebellion*, London, 1977, p. 109, cited in Bat Ye'or, *Islam and Dhimmitude: Where Civilizations Collide*, Teaneck, NJ: Fairleigh Dickenson University Press, 2002, pp. 160-161), at <http://www.icpa.org/jl/vp490.htm> .

<sup>65</sup> Jerusalem Embassy Act of 1995, *supra*, § 2.(5)-(8).

<sup>66</sup> *"Abbas Wants 'Not a Single Israeli' in Future Palestinian State,"* by Noah Browning, Reuters, July 30, 2013, at <http://www.reuters.com/article/us-palestinians-israel-abbas/abbas-wants-not-a-single-israeli-in-future-palestinian-state-idUSBRE96T00920130730>

<sup>67</sup> See *"IDF Soldier Injured in Skirmish near Joseph's Tomb,"* Times of Israel, Sept. 21, 2015, at <https://www.timesofisrael.com/idf-soldier-hurt-in-skirmish-near-josephs-tomb/>; *"Arson at Joseph's Tomb,"* The Atlantic, Oct. 16, 2015, at [https://www.theatlantic.com/international/archive/2015/10/josephs-tomb-nablus-fire-israel-](https://www.theatlantic.com/international/archive/2015/10/josephs-tomb-nablus-fire-israel/)

If a Palestinian Arab state controlled portions of Jerusalem, Christians would suffer the same discrimination that they are subjected to in areas currently under Palestinian Authority control. The PA has shown contempt for and desecrated Christian churches, statues, crosses and cemeteries; cut phone lines to monasteries; aired loudly amplified Muslim sermons during Christian services; broken into convents; harassed and arrested Christian converts; extorted money and confiscated land and property of Christians.<sup>68</sup>

Perhaps the importance and attachment to the Jewish people of the Jewish holy places in the Old City of Jerusalem – and the pain of being cut off from them - can best be conveyed through the story of one man:

David Nahe<sup>69</sup> is an 81-year-old Jewish man and lifelong Jerusalemite, who was born in Jerusalem in 1936. Prior to 1948, David and his father went to the Western Wall to pray, and David's father's business – a small shop – was located near the Old City entrance. When Jordan conquered the area, David's father was forced to abandon his business, and David and his father could no longer pray at the Western Wall. During those next 19 years of illegal Jordanian occupation (1948-1967), David and his father and others would walk to Mount Zion, the highest point they could find, where one could perhaps see the top-most tips of the trees above the Western Wall – and say “there it is, there's the Kotel!” – even though the Western Wall could not really be seen from there – and pray facing there. Returning to the Western Wall in 1967 after the nineteen long years of separation felt extraordinary.

### Conclusion

In closing, I would like to thank you for holding this hearing to review the important issue of implementing the Jerusalem Embassy Act of 1995.

CONTACT: Morton A. Klein, National President  
Zionist Organization of America (ZOA)  
Tel: 212 481-1500  
Fax: 212 481-1515  
Email: info@zoa.org  
Twitter: @mortonaklein7  
Website: zoa.org

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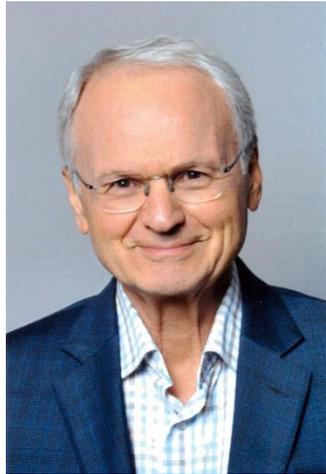
[palestinians/410914/](https://www.haaretz.com/israel-news/israeli-killed-by-palestinian-police-in-joseph-s-tomb-officially-recognized-as-terror-victim-1.364254) ; “Israeli Killed by Palestinian Police in Joseph's Tomb Officially Recognized as Terror Victim,” Haaretz, May 26, 2011, at <https://www.haaretz.com/israel-news/israeli-killed-by-palestinian-police-in-joseph-s-tomb-officially-recognized-as-terror-victim-1.364254>

<sup>68</sup> “The Beleaguered Christians of the Palestinian-Controlled Areas,” *supra*.

<sup>69</sup> Mr. Nahe was interviewed by ZOA in Jerusalem on Oct. 30, 2017.



## ZOA National President Morton A. Klein



**M**orton A. Klein is National President of the Zionist Organization of America (ZOA), the oldest pro-Israel group in the U.S., founded in 1897. He is a member of the National Council of AIPAC. Mr. Klein is widely regarded as one of the leading Jewish activists in the United States. He is a child of Holocaust survivors, born in a displaced persons camp in Gunzberg, Germany.

The national Jewish weekly, “The Forward” named him one of the top five Jewish leaders in the US today, stating “It’s impossible to deny that Klein has been extraordinarily effective.” The US Department of State has awarded Klein a “Certificate of Appreciation” “in recognition of outstanding contributions to national and international affairs,” after he delivered a major address there. He is a member of the International Board of Governors of the College of Judea and Samaria in Ariel, Israel.

He is an economist who served in the Nixon, Ford, and Carter Administrations. He has served as a biostatistician at UCLA School of Public Health and the Linus Pauling Institute of Science and Medicine in Palo Alto, Calif., having worked closely with two-time Nobel Laureate Linus Pauling. He has been a lecturer in mathematics and statistics at Temple University.

The Philadelphia Jewish Exponent named him one of the top dozen “Jewish activists of the century.” The NY Jewish Week (largest Federation paper) has named him one of the top ten Jewish leaders who have made a difference. The Jewish Press recently stated that “Morton Klein is one of the best minds in this country.” The Jerusalem Post has called the ZOA, “one of the most important and influential groups in the U.S. today.” The Wall Street Journal called the ZOA “heroic and the most credible advocate for Israel on the American Jewish scene today,” and we should “snap a salute to those who were right about Oslo and Arafat all along, including Morton Klein who was wise, brave, and unflinchingly honest. When the history of the American Jewish struggle in these years is written, Mr. Klein will emerge as an outsized figure.” The New York Times, in a profile

called “Public Lives,” called Klein, “a man who ferrets out anti-Semitism wherever it is, a rare voice from the outset in the American Jewish community against the Oslo Accords, and an iconoclast who is a prolific speechmaker, writer, and Congressional lobbyist.”

His successful campaigns against anti-Israel bias in leading textbooks, travel guides, universities, churches, and the media, as well as his work on Capitol Hill, were the subject of 30 feature stories both here and in Israel. His scientific research on nutrition and heart disease was cited by Discover Magazine as one of the Top 50 Scientific Studies of 1992. He has been invited to testify before the US Congress, including the US House International Relations Committee, and the Israeli Knesset.

He traveled to Germany and persuaded the publishers of Baedeker’s, the world’s leading travel guide, to correct the many anti-Israel errors in its guides to Israel and Jerusalem. He launched a campaign to correct dozens of anti-Israel errors in D.C. Heath’s “The Enduring Vision,” the most widely used American high school and college history textbook. Other campaigns by Klein dramatically reduced the number of anti-Israel lectures at Villanova University and at the largest church in the Philadelphia area.

Mr. Klein is quoted internationally and has appeared in the media in countries including the U.S.A., Israel, France, Germany, Japan, Greece, Holland, etc. More than 300 of his articles and letters have been published in newspapers, magazines, and scientific journals around the world, including the *New York Times*, *Washington Post*, *Wall Street Journal*, *LA Times*, *Washington Times*, *USA Today*, *Congressional Quarterly*, *New Republic*, *New Yorker*, *Commentary*, *Near East Report*, *Reform Judaism*, *Jerusalem Post* & other leading Jewish papers, *Philadelphia Inquirer*, *Miami Herald*, *Chicago Tribune*, *Ha’aretz* & *Maariv* (Israel), *Canadian Jewish News*, *Journal of Preventive Medicine*, *Journal of Epidemiology*.

Klein has appeared on TV and radio including ABC’s World News Tonight (4 minute segment on ZOA “Lobbying for Israel”), NBC National News, Jim Lehrer News Hour, O’Reilly Factor, CNN, Fox-TV, CNBC, MSNBC, NPR, BBC, C-Span, VOA, Israel TV/Radio. Lines from his speeches appear in the respected volume entitled “Great Jewish Quotations,” He is on the speaker’s bureau of UJC, and Israel Bonds.

Mr. Klein is married to Rita, has a married daughter Rachael, and four grandchildren.