



November 8, 2017

Testimony Before the Subcommittee on National Security of the House Committee on Oversight and Government Reform

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

Prepared Statement

Michael J. Koplow, Policy Director

Israel Policy Forum

Mr. Chairman, Mr. Ranking Member, and Members of the Committee:

Thank you for the invitation to appear before you to discuss the important issue of moving the American Embassy in Israel to Jerusalem. As the title of this hearing aptly notes, there are both challenges and opportunities in moving the embassy from its current location in Tel Aviv that make this issue particularly thorny. The basic challenge as I see it in this case is to balance issues of fundamental fairness against potential harm to the Trump Administration’s diplomatic priorities and American allies in the region.

As the Members of this Committee know well, the Jerusalem Embassy Act of 1995 was intended to rectify the historic wrong of locating the American Embassy in a city that is not Israel’s declared capital. Israel designated Jerusalem as its capital following the state’s establishment and its victory in the War of Independence, and Israel’s control and rights to West Jerusalem are not today in dispute. Indeed, the Armistice Agreements signed in 1949 between Israel and Jordan, Egypt, Syria, and Lebanon that established the Green Line placed the Jewish neighborhoods of West Jerusalem in Israeli territory, explicitly recognizing Israel’s claim to the modern city of Jerusalem. There is no legal impediment to acknowledging West Jerusalem as Israel’s capital.

The historical reason for the embassy being located in Tel Aviv is because the international community views the overall status of Jerusalem as being subject to negotiations between Israel and the Palestinians. This is not an issue in which the United States is an outlier in any way – while there were a small number of primarily Latin American countries that located their embassies in Jerusalem in the past, there have been no embassies in Jerusalem for over a decade. The fact that the United States has maintained this policy for more than half a century should not be sufficient reason to keep the embassy in Tel Aviv, nor should the United States shy away from moving the embassy simply to remain in line with the rest of the international community.

The argument for moving the embassy to Jerusalem relies on a basic notion of fairness. Israel is the only UN member state whose capital – determined by its own democratically elected and sovereign government – is not accepted by the rest of the international community. Despite the fact that Jerusalem does indeed represent a complex problem whose ultimate settlement must be resolved through negotiations, this is a red herring. Israel's capital is in the section of Jerusalem that was built by Jewish residents of Palestine and has not been disputed since the cessation of hostilities in 1949. Its status is not disputed, and even the PLO accepts West Jerusalem to be part of Israel in the context of negotiations. West Jerusalem is also not the part of the city that is viewed by the United Nations as *corpus separatum* and being more appropriately placed under a special international regime. Many view the refusal to locate the American embassy in West Jerusalem as evidence that the issue is acceptance of Israel in any borders rather than a stand against Israel's application of its law to East Jerusalem or presence in the West Bank, fueling a fear among Israelis that the legitimacy of their state will never be fully recognized.

Furthermore, keeping the embassy in Tel Aviv does not constitute a purely neutral move. Israelis rightly feel that it signals an unwillingness to accept Jerusalem as the capital of Israel and the Jewish people, the return to which was the object of centuries of Jewish longing. An American embassy in West Jerusalem does not prejudice the status of the Old City or negate the eminently reasonable desire of Palestinians to have their future capital in East Jerusalem. Keeping the embassy in Tel Aviv grants a hecklers' veto to those whose real problem is with any Israeli presence in Jerusalem and who aim to deny the Jewish connection to Jerusalem.

In addition, the American Embassy's location in Tel Aviv twinned with the location of the American Consulate General in Jerusalem creates a blatant double standard. The consulate serves as an independent mission outside of the authority of the embassy, and is a de facto mission to the Palestinian Authority in the absence of an embassy in Ramallah. Thus, American diplomats who oversee U.S.-Israel relations are located in Tel Aviv in an effort not to prejudice any permanent status negotiations over Jerusalem, yet American diplomats who maintain the relationship with the Palestinian Authority work out of a mission in Jerusalem.

Israel's government institutions are primarily located in Jerusalem. It is inconceivable that any permanent status agreement between Israel and the Palestinians will not recognize Jerusalem as the capital of Israel. Maintaining the legal fiction that Israel's capital is disputed not only can be seen as grave disrespect to a critical American ally, but it also perpetuates an unreasonable notion among Palestinians and wider Arab publics that Israel's claim to Jerusalem is illegitimate and that the Jewish connection to Jerusalem is concocted. Moving the American Embassy to Jerusalem would send a powerful message about history, justice, and the value of supporting allies.

Nevertheless, despite the strong considerations that recommend relocating the Embassy, doing so would not be cost-free. The Jerusalem Embassy Act, while demonstrating Congress's recognition of the power in righting this historical wrong, recognized that moving the American Embassy from Tel Aviv to Jerusalem could have potentially damaging national security implications. As a result, Congress gave the president the authority to suspend for six months the budgetary cuts to the State Department that would automatically occur if the Embassy was not relocated to Jerusalem if doing so was necessary to protect the national security interests of the United States, and to continue that suspension for an indefinite number of six month periods if national security interests warranted it. Since the Jerusalem Embassy Act was passed and enacted, every president

has declined to move the Embassy and has consistently invoked his power to suspend these appropriations cuts, including most recently President Trump. There are three primary national security considerations that favor keeping the embassy in Tel Aviv: preventing violence in Israel and the West Bank and the targeting of American diplomatic facilities, safeguarding the interests of Sunni Arab regional allies, and maintaining conditions for the Trump Administration or any future administrations to successfully advance an initiative on the Israeli-Palestinian peace process.

The status of Jerusalem has always been the thorniest of the core issues at the heart of the Israeli-Palestinian conflict. Changes in the city's status quo – most prominently and most recently manifested in conflict over the Temple Mount this past July – lead to outbreaks of violence that can spin out of control and be difficult to manage, fundamentally putting Israel's security at risk. There is no definitive way of knowing whether moving the American Embassy to Jerusalem will result in chaos, riots, and violence. It is likely, however, that doing so will lead to unrest given the explosiveness of the issue, whether this takes place in Jerusalem, other spots in Israel, the West Bank, Muslim-majority countries, or at American embassies around the world. Moving the Embassy will be perceived as recognizing Israel's claim to Jerusalem at the expense of Palestinian claims to the city, and public rhetoric is certain to reflect this and tend toward incitement to violence and "defending al-Quds." Palestinian and Muslim populations are unlikely to respect the distinction between establishing the American Embassy in West Jerusalem and leaving the status of East Jerusalem subject to negotiations. This could affect not only stability and order in Jerusalem, but also the safety and security of American embassies and diplomatic personnel around the world. As noted above, moving the Embassy to Jerusalem would constitute a powerful symbol, but doing so must be weighed against the possibility that it will result in the loss of American, Israeli, and Palestinian lives. The danger of mass demonstrations throughout Muslim-majority countries protesting the Embassy move will be high. No decision to move the Embassy should be made before conducting a thorough assessment of the risks involved, which countries and locations are most likely to be affected, and the likelihood of the loss of life and property damage. Jerusalem is possibly the most sensitive geopolitical location on the globe, and moving the American Embassy outside of the context of a negotiated deal will have concrete security consequences.

Moving the Embassy to Jerusalem may also have a profound affect on American allies in the region. Jordan and Egypt in particular have restive populations that are sensitive to issues surrounding Jerusalem and the Israeli-Palestinian conflict, and Jordan's peace treaty with Israel specifically recognizes its special and historic role in Jerusalem. Moving the Embassy risks unrest in these countries that will also make it more difficult for their governments to cooperate with the United States on other regional issues. It will also create a significant political problem for the Jordanian monarchy, which is one of the United States' most – if not the absolute most – reliable Arab allies in the region and which has a majority Palestinian population. The need to maintain a united front against Iranian regional hegemony, continuing to prosecute the fight against ISIS forces and ISIS offshoots such as the terrorist group in the Sinai Peninsula, and staunching the flow of refugees from Syria in Jordan in particular are all American priorities that will become more difficult to maintain should there be a backlash from relocating the Embassy to Jerusalem. Doing so may also put further strain on the peace treaties that Israel has with Jordan and Egypt, which are constantly subject to pressure due to their unpopularity with the Jordanian and Egyptian publics.

Finally, moving the Embassy at this time will fatally damage any Israeli-Palestinian peace initiative that the Trump Administration is planning to unveil before it has a chance to get off the ground. It may also fatally damage any future efforts by this administration and any successive ones, putting a two-state solution permanently out of reach. President Trump has repeatedly stated his desire to broker a deal between the two parties, and moving the Embassy at the beginning of a renewed peace process rather than as the culmination of a successful round of negotiations will make this goal harder to achieve. It will sow distrust on the Palestinian side of the United States as an honest broker, and may lead the Palestinians to refuse to negotiate if they view one of the core final status issues as already being prejudged. None of this is to suggest that the United States may not have an interest in making clear that it recognizes Jerusalem as the capital of Israel, but rather to point out that doing so will have consequences that adversely affect one of President Trump's foreign policy priorities. Moving the Embassy should be done in the context of a successful negotiating process in keeping with decades of American policy precedents, and should not be done in the aftermath of a failed or stalled negotiation. The location of the American Embassy should be a variable that helps the peace process rather than harms it.

If the Embassy is indeed moved to Jerusalem, it must be done in a way that not only corrects the currently reigning historical injustice but also preserves and promotes the two-state solution, which is a critical and long-standing foreign policy and national security interest of the United States. This can only be achieved if the United States makes clear that an American Embassy in West Jerusalem does not mean that it recognizes Israeli sovereignty the entirety of the city and that moving the Embassy does not prevent the establishment of a future Palestinian capital in Jerusalem. If the United States were to relocate its Embassy to Jerusalem while simultaneously declaring that any embassy to the future state of Palestine – pending the successful outcome of permanent status negotiations between Israel and the Palestinians – will be located in East Jerusalem, this would be the only way to both legitimize Israel's rightful claims in Jerusalem and maintain a viable two-state solution in the future.

Alternatively, the United States could adopt the same policy that was recently adopted by Russia and that was welcomed by the Israeli government, which is to recognize West Jerusalem as Israel's capital but keep the Embassy in Tel Aviv until a permanent status agreement between Israel and the Palestinians has been signed. This policy option grants Israel the recognition in its capital that it deserves without prejudging the sovereignty of the disputed portion of the city, and it may also avoid the likeliest trigger for violence, which would be the relocation of the Embassy itself.

In sum, the decision to relocate the American Embassy to Jerusalem cannot be judged solely on the issue of fairness. While there are valid arguments on both sides, a decision to move the Embassy will not be cost-free, and the timing at the moment raises particularly thorny challenges. In this instance, what is fair and just may not be the same as what is wise. Any change in the Embassy's status must be carefully and comprehensively weighed against the grave and unintended consequences that may occur should the Embassy be relocated to Jerusalem.

Michael Koplow is the Policy Director of the Israel Policy Forum.

Before coming to IPF, he was the founding Program Director of the Israel Institute from 2012 to 2015. He holds a Ph.D. in Government from Georgetown University, where he specialized in political development and ideology, and the politics of Middle Eastern states. In 2012-13 he served as a Young Turkey Young America fellow through the Atlantic Council's Young Atlanticist program. He writes IPF's weekly Koplow Column and edits IPF's Matzav blog, which is a leading source for commentary and analysis on Israel and American Jewry. He is also the author of the Ottomans and Zionists blog and his work has appeared in Security Studies, Foreign Affairs, The Wall Street Journal, The National Interest, Foreign Policy, The American Interest, and The Atlantic, among other publications.

In addition to his Ph.D., he holds a B.A. from Brandeis University, a J.D. from New York University, and an A.M. in Middle Eastern Studies from Harvard University.

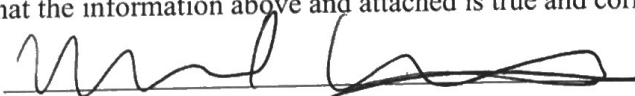
Committee on Oversight and Government Reform
Witness Disclosure Requirement — “Truth in Testimony”

Pursuant to House Rule XI, clause 2(g)(5) and Committee Rule 16(a), non-governmental witnesses are required to provide the Committee with the information requested below in advance of testifying before the Committee. You may attach additional sheets if you need more space.

Name:

1. Please list any entity you are representing in your testimony before the Committee and briefly describe your relationship with each entity.					
Name of Entity	Your relationship with the entity				
Israel Policy Forum	policy director				
2. Please list any federal grants or contracts (including subgrants or subcontracts) you or the entity or entities listed above have received since January 1, 2015, that are related to the subject of the hearing.					
Recipient of the grant or contact (you or entity above)	Grant or Contract Name	Agency	Program	Source	Amount
none					
3. Please list any payments or contracts (including subcontracts) you or the entity or entities listed above have received since January 1, 2015 from a foreign government, that are related to the subject of the hearing.					
Recipient of the grant or contact (you or entity above)	Grant or Contract Name	Agency	Program	Source	Amount
none					

I certify that the information above and attached is true and correct to the best of my knowledge.

Signature 

Date: 11/6/17

Page ____ of ____