

114TH CONGRESS
1ST SESSION

H. RES. 270

Expressing the sense of Congress regarding the Palestinian Authority's purported accession to the International Criminal Court for the purpose of initiating prosecutions against Israeli soldiers, citizens, officials, and leaders.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2015

Mr. FRANKS of Arizona (for himself and Mr. VARGAS) submitted the following resolution; which was referred to the Committee on Foreign Affairs

RESOLUTION

Expressing the sense of Congress regarding the Palestinian Authority's purported accession to the International Criminal Court for the purpose of initiating prosecutions against Israeli soldiers, citizens, officials, and leaders.

Whereas the United States has committed its diplomatic efforts to obtaining a genuine and durable peace agreement between the State of Israel and the Palestinians, to be achieved through bilateral negotiations since the signing of the Oslo Accords in 1993;

Whereas Congress reaffirms the United States commitment to a genuine and sustainable peace, obtained through direct bilateral negotiations between Israeli and Palestinian leadership, without the interference or inclusion of Hamas, in keeping with United States commitments to

democracy, freedom, and the rights of all peoples to self-determination;

Whereas the Palestinian Authority, headed by President Mahmoud Abbas, has engaged in a series of bad-faith actions bypassing and hindering the United States peacemaking efforts, and has undertaken multiple courses of action hindering negotiations aimed at achieving a genuine and sustainable peace settlement between the Palestinians and the State of Israel;

Whereas the most recent of these bad-faith actions has been the Palestinian Authority's pursuit of membership in the International Criminal Court (ICC) and the initiation of prosecutions of Israeli leaders, citizens, officials, and soldiers for alleged war crimes, which profoundly undermines prospects for mutual recognition, dialogue, and reconciliation;

Whereas Palestine Liberation Organization (PLO) elements of the Palestinian leadership have stated that Palestinian accession to the ICC is only the first step towards carrying out a total and continuous political and judicial battle against the State of Israel outside of the agreed negotiating framework;

Whereas Hamas, which is part of the Palestinian Authority's unity government with Fatah, has called the purported Palestinian accession to the ICC a first step by the international community to isolate Israel, calling on the Palestinian Authority to widen the ambit of prosecutions;

Whereas the aforementioned conduct of the Palestinian Authority hinders the peace process between Israel and the Palestinians and thus represents a threat to the regional

interests of the United States and the security of its allies;

Whereas Congress recognizes that Israel has made significant breakthroughs in advancing peace with its neighbors, as exemplified by its peace treaties with Egypt and Jordan, and has demonstrated its good faith and enduring determination and willingness to establish a genuine and sustainable peace with the Palestinians;

Whereas Congress recognizes that Israeli leaders and soldiers have been forced to defend Israel's citizens and civilians from unrelenting terrorist attacks, including over 15,000 rocket and mortar attacks against civilian communities, suicide bombings and cross-border tunnel attacks, by undertaking military action in Gaza and in the West Bank;

Whereas Congress recognizes the commitment of Israel's civilian and military leadership to applicable international legal norms, and the commitment of the Israel Defense Forces to act strictly within the confines of the Law of Armed Conflict in all of its military engagements;

Whereas Congress recognizes that the Israel Defense Forces doctrine of the "Purity of Arms" requires all Israeli soldiers to maintain their humanity in combat, and forbids the use of armed force to harm non-combatants or their property, enjoining all Israeli soldiers to do everything in their ability to avoid harming the lives, body, honor and property of non-combatants, and this doctrine remains the guiding rule and policy of Israel's armed forces;

Whereas Israel's civilian judiciary is impartial and internationally respected, and has established a well-earned reputation for being a champion of human rights and respect for international legal norms;

Whereas Congress recognizes that Israel’s internal mechanisms for examining and investigating complaints and claims of violations of the Law of Armed Conflict is internationally regarded and complies with Israel’s obligations under international law and ICC standards of complementarity, in light of the general principles for conducting an effective investigation under international law—independence, impartiality, effectiveness and thoroughness, and promptness—and that Israel’s system ranks favorably with those of other democratic systems;

Whereas Israeli soldiers and Israeli officials involved in the defense of the State of Israel should not, therefore, be the subject of frivolous or politically motivated prosecutions by the International Criminal Court or any other foreign tribunal;

Whereas Congress reaffirms the Administration’s stance opposing and regarding as legally invalid Palestinian membership in the ICC, which is open only to sovereign states, and condemns the unilateral actions of the Palestinian Authority to obstruct peace with Israel by moving to become a member of the ICC, with the sole purpose of initiating wrongful and politically motivated prosecutions of Israelis for alleged war crimes; and

Whereas the politically motivated use of international bodies weakens their legitimacy and efficacy, and hinders the movement towards the universal adoption of human rights norms: Now, therefore, be it

1 *Resolved*, That it is the sense of Congress that—

2 (1) the Palestinian Authority should withdraw
3 its application for membership to the International
4 Criminal Court (ICC);

1 (2) the Palestinian Authority should cease all
2 attempts to initiate, support, or encourage frivolous
3 and politically motivated war-crimes prosecutions
4 against Israeli leaders, officials, citizens or soldiers
5 via the International Criminal Court or any other
6 international or national judicial body;

7 (3) the Palestinian Authority should dem-
8 onstrate its viability as a peace partner with the
9 State of Israel by returning to bilateral negotiations
10 with Israel, without preconditions, and cease to un-
11 dertake bad-faith actions demonstrating its non-via-
12 bility as Israel's peace partner;

13 (4) the organs of the ICC should oppose the
14 politicization of international law by the Palestinian
15 Authority by rescinding Palestinian membership in
16 the ICC, which is open only to sovereign states,
17 promptly closing any preliminary examination and
18 refraining from opening or authorizing any inves-
19 tigation into the conduct of Israel's soldiers, offi-
20 cials, and leaders on the basis of the legally invalid
21 and politically motivated Palestinian attempt to
22 grant the ICC jurisdiction;

23 (5) the ICC should defer to Israeli jurisdiction
24 and the Israeli military and civilian judicial systems
25 in cases involving Israeli citizens, soldiers, or leaders

1 since Israel has proceeded with good-faith investiga-
2 tions and prosecutions of alleged war crimes, dem-
3 onstrating now, as in the past, its genuine willing-
4 ness to prosecute these matters; and

5 (6) the Administration should begin immediate
6 substantive consultations with Congress concerning
7 Palestinian state-level membership in the ICC.

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