



Myths & Facts: The Two-State Solution Act (H.R.5344) & Rebuttals to Alleged “Shortcomings” of the Bill

MYTH: The bill seeks to impose a Congressional solution to what Israelis and Palestinians should be doing themselves (which is a significant departure from decades of American policy).

FACT: This is false. The bill does not impose a solution of any kind on the parties. Unlike the Trump proposal which some of the right-leaning groups opposing this bill supported, it doesn't prejudice or even make suggestions as to the outcome of final status issues in the conflict. It expressly reaffirms and endorses decades of bipartisan US support for the objective of a two-state solution, and urges reversal of the significant departures of the previous administration from decades of American policy.

MYTH: The bill is prescriptive in nature telling primarily Israel and, to a lesser extent, the Palestinians what they must do.

This is false with respect to Israel. The bill does not tell Israel what to do or require any additional action on Israel's part. The bill concerns **US** policy and action, such as for what purposes it may and may not provide arms and aid. The bill does, however, say that the Palestinians should comply with the Taylor Force Act and reform its prisoners payments program; it is surprising and disappointing to hear that some groups have a problem with that.

MYTH: The bill opens up the door to conditioning security assistance to Israel on meeting specified policy and political mandates.

FACT: This is false. This bill expressly reaffirms full provision of all the aid pledged in the 2016 MOU and does not condition it. Saying it “opens up the door” to a policy it does not support or even mention is as credible as saying a public health insurance option opens the door to state-rationed medical care or that a \$15 minimum wage opens the door to communism. It's alarmist hyperbole unsupported by what's in the bill.

MYTH: The bill places primary responsibility on the Israelis for failure to achieve peace and perpetuates the narrative of victimhood and lack of agency on the Palestinian side.

FACT: This is false. Nowhere does the bill lay the blame for failure to achieve a two-state solution on either party. The bill expressly “discourage[s] steps by either party to the conflict that would put a peaceful end to the conflict further out of reach.” In several places, the bill addresses and takes steps to further protect Israel from incitement and terrorism.

Rebuttals to Alleged “Shortcomings” of the Bill:

ALLEGED “SHORTCOMING”: The bill will likely only attract support from one political party and further divide bipartisan support for Israel.

REBUTTAL: If lawmakers from one party fail to support the bill, that’s the unfortunate result of that party increasingly abandoning the long held bipartisan US position of support for two states, even going so far as to strike support for a two-state solution from its platform. This bill expressly reaffirms and seeks to strengthen longstanding, bipartisan US policy in support of two states.

ALLEGED “SHORTCOMING”: The bill asserts that all territories are a priori “occupied” including East Jerusalem.

REBUTTAL: Until the Trump administration began stripping references to the occupation and the occupied territory from official US documents, administrations from both parties recognized and routinely referred to them as such -- see, for example, the [2016 State Department report](#) on religious freedom section on “The Occupied Territories, which include the West Bank, East Jerusalem, and the Gaza Strip.” The Trump administration's change in nomenclature was a case of clear political meddling designed to change the long-standing US policy of supporting a two-state solution to resolve the conflict between Israel and the Palestinians.

ALLEGED “SHORTCOMING”: That bill asserts that settlements are a priori determined to be a violation of international law.

REBUTTAL: Prior to the Trump administration, US administrations of both parties recognized that settlements are inconsistent with international law. Secretary of State Mike Pompeo abandoned this long held, bipartisan position in 2019, prompting 106 Members of the House of Representatives to [write](#) to him “to express our strong disagreement with the State Department's decision to reverse decades of bipartisan U.S. policy on Israeli settlements in the occupied West Bank by repudiating the 1978 State Department legal opinion that civilian settlements in the occupied territories are ‘inconsistent with international law’... This State Department decision blatantly disregards Article 49 of the Fourth Geneva Convention, which affirms that any occupying power shall not ‘deport or transfer parts of its own civilian population into the territory it occupies.’”

ALLEGED “SHORTCOMING”: The bill makes no distinction between the West Bank (partially controlled by the Palestinian Authority and Israel) and Gaza (where Israel completely withdrew from in 2005 that has been under full control by a terrorist group since 2007).

REBUTTAL: Despite dismantling its military installations and settlements there in Gaza in 2005, Israel continues to maintain direct external control over Gaza and indirect control over life within Gaza. Israel controls freedom of movement in and out of Gaza, maintaining exclusive control over its airspace and coastline, reserving a right to reenter at will and a prerogative to exert military force throughout the tiny enclave. Israel controls its imports and exports, and Gaza remains dependent on Israel for water, electricity, utilities, and currency. Israel maintains ultimate authority over the Palestinian population registry, through which Israel is able to determine who is classified as a Palestinian and, more specifically, who is a resident of Gaza or the West Bank. Ongoing Israeli control over Gaza has led most countries and international bodies, as well as innumerable independent experts and observers, to reject the argument that Gaza is no longer occupied. As noted above, successive US administrations referred to the Gaza Strip, in addition to the West Bank and East Jerusalem, as “Occupied Territories,” until the Trump administration began stripping references to the occupation and the occupied territory from official US documents. (Again, see the [2016 State Department report](#), which specifies that “The Occupied Territories ... include the West Bank, East Jerusalem, and the Gaza Strip.”)

ALLEGED “SHORTCOMING”: The bill contains no recognition of Israel’s security requirements related to the territories and how defensible borders and territorial adjustments must be a part of whatever agreements reached by the parties. (This has been the policy of every recent Democratic and Republican administration).

REBUTTAL: Again, the bill does not impose, prejudice or even suggest certain outcomes on any final status issues, including final borders and security arrangements. The bill expressly acknowledges Israel’s security interests and recommits to all aid pledged under the MOU. The bill in no way limits Israel’s ability to deploy its forces or any arms anywhere in the world in defense of its state or people.

ALLEGED “SHORTCOMING”: The bill completely ignores Israel’s efforts to make peace with its Palestinian neighbors over many years including formal peace proposals that were rejected or ignored by Palestinian leaders.

REBUTTAL: The bill refers to neither Israeli nor Palestinian rejections of prior proposals in previous decades’ negotiations. Nor does the bill note that the Israeli government has under both its current and recent former Prime Minister rejected even holding talks toward a two-state solution, with PM Bennett even going so far as to boast after his first meeting with President Biden, “I am the only prime minister in three decades who told the president of the United States I am not going to hold peace talks with the Palestinians.”

ALLEGED “SHORTCOMING”: While pretending to be a balanced piece of legislation, the bill text places the primary burden of blame on Israel for the failure to solve the Israeli-Palestinian conflict.

REBUTTAL: This claim, made earlier in the “Myths” section, and repeated here, is false. We’ll say it again: Nowhere does the bill lay the blame for failure to achieve a two-state solution on either party. The bill expressly “discourage[s] steps by either party to the conflict that would put a peaceful end to the conflict further out of reach.” In several places, the bill addresses and takes steps to further protect Israel from incitement and terrorism.

ALLEGED “SHORTCOMING”: The bill details alleged examples of Israeli actions that contribute to prolonging of conflict (e.g. settlements, demolitions and evictions) with no mentions of Palestinian actions that enflame the conflict and make a negotiated settlement unreachable (e.g. calls for international boycotts and sanctions on Israel; prosecution at the International Criminal Court; anti-Israel activities at the United Nations; incitement against Israel by Palestinian officials and in schools and government-controlled media etc)

REBUTTAL: This is false. The bill expressly expressly “discourage[s] steps by either party to the conflict that would put a peaceful end to the conflict further out of reach” and specifically cites Hamas terrorism and the PA’s prisoners’ payments program, and strengthens existing law concerning US relations with the Palestinians to combat incitement. The bill doesn’t list out every problematic Palestinian action, just like it doesn’t list out every problematic Israeli action.

ALLEGED “SHORTCOMING”: The bill encourages but does not mandate an end to “pay to slay”

REBUTTAL: This is false. The bill expressly endorses and incentivizes Palestinian compliance with the Taylor Force Act that mandates an end to the current prisoner payments program.

ALLEGED “SHORTCOMING”: The bill does not mention who is responsible for restrictions on civil liberties in the territories, arrest of activists, journalists, protesters – vagueness makes it appear that Israel does this rather than the PA.

REBUTTAL: This is false. The language paraphrased here is found in point (8) of Section 4, the bill’s Statement of Policy. Points (7), (8), and (9) clearly pertain to the bill’s support for “programming that bolsters Palestinian civil society organizations and Palestinian government reforms, with the goal of fostering a Palestinian government that is democratic and enjoys credibility among the Palestinian people.”

ALLEGED “SHORTCOMING”: The bill makes no mention of internal Palestinian tensions between Hamas + PA, the absence of one undisputed leader/representative of the Palestinian people to represent them in future two-state negotiations and how a divided Palestinian leadership would implement a peace agreement with Israel that led to an independent Palestinian state. Any effort to support a two-state solution needs to recognize this reality and yet this bill just ignores it.

REBUTTAL: The bill does not endorse or prescribe a path to Palestinian reconciliation. It’s odd that this is being flagged as a shortcoming given that one of the other objections was that the bill tells the Palestinians what to do.

ALLEGED “SHORTCOMING”: The bill repeatedly suggests, without any evidence, that the U.S. does not already ensure that security assistance to Israel is used for anything other than internal security or legitimate self-defense. There are numerous innuendos of Israeli misuse of funds and lack of oversight by the U.S. government.

REBUTTAL: While the bill does not allege specific violations of US law, there is an abundance of videos, pictures and eyewitness reports of Israeli forces using what appears to be US-origin military equipment in connection with illegitimate activities such as [demolitions](#) of Palestinian homes, [denial of Palestinians’ access](#) to their land and crops, [accompanying violent settler attacks](#) on Palestinian villages, and the [arrest of young children](#) in violation of internationally recognized human rights, to name just a few. What this bill does do is make clear in US law that such uses of US military equipment would be impermissible.

ALLEGED “SHORTCOMING”: The bill calls for reopening of the consulate in Jerusalem and the PLO mission in DC without conditions.

REBUTTAL: It is not clear why one would suggest that there should be conditions on reopening a US consulate that was in place for more than a century before the Trump administration closed it, nor is it clear on whom the conditions would be placed (the US?). The facts are clear: 1) officials who served at the US consulate in Jerusalem have [warned](#) that the closure of the consulate impedes the ability of diplomats to relay an accurate picture of developments on the ground to the State Department; 2) the closure of the consulate cut off an important channel through which the US conducted relations with Palestinians and their leadership, constraining the administration’s ability to prevent and defuse crises, as was evident during the escalation between Israel and Hamas in May; and 3) closure of the consulate and subsuming its functions relating to the occupied Palestinian territory into the US embassy to Israel was tantamount to recognition by the Trump administration of Israeli annexation of territories it has not actually annexed. Congressional support for reopening the consulate in Jerusalem would buttress the Biden administration’s repeatedly stated intention to reopen the

consulate. Regarding the PLO mission in Washington, its reopening is subject to laws that the Two-State Solution Act expressly references and reaffirms.

ALLEGED “SHORTCOMING”: The bill dictates to U.S. government officials how Israel and the territories should be differentiated and referred to in USG policies, communications and documents.

REBUTTAL: This remarkable criticism seems to ignore both the Constitution and two centuries of Congressional practice in considering and passing laws that impact US action and policies on such matters as Customs rules and government spending and oversight. If the bill's opponents want to argue Congress has no role in matters of foreign affairs, that is certainly their prerogative. It certainly seems at odds with their vocal support for multiple pieces of legislation inaccurately defining Israel as including “territories controlled by Israel” -- i.e., the settlements -- for purposes of US law and executive action.