

108TH CONGRESS
2D SESSION H. RES. 713

Deploing the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose, the willingness of the International Court of Justice to acquiesce in an effort likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
JULY 13, 2004

Mr. PENCE (for himself, Ms. BERKLEY, and Ms. ROS-LEHTINEN) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Deploing the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose, the willingness of the International Court of Justice to acquiesce in an effort likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict, and for other purposes.

Whereas the Israeli people have suffered through a three-year campaign of terror that has included suicide bombings, snipers, and other attacks on homes, businesses, and places of worship and has resulted in the murder of more than 1,000 innocent people since September 2000; Whereas more than 50 United States citizens have been killed and more than 80 United States citizens injured by Palestinian terrorists in Israel, the West Bank, and Gaza since 1993;

Whereas President George W. Bush said in October 2003 regarding Israel's right to self-defense that "Israel must not feel constrained in terms of defending the homeland"; Whereas international law, as expressly recognized in Article 51 of the United Nations Charter, guarantees all nations an inherent right to self-defense;

Whereas United Nations Security Council Resolution 1373 (2001), relating to international cooperation to combat threats to international peace and security caused by terrorist acts, and statements by representatives of other countries at that time, make clear that Article 51 of the United Nations Charter applies to self-defense against actions by terrorist groups against the civilian population of any country;

Whereas a security barrier, capable of being modified or removed, is being constructed by Israel in response to an ongoing campaign of terror against its

people and has resulted in a dramatic decline in the number of successful terrorist attacks;

Whereas on December 8, 2003, the United Nations General Assembly adopted, through a plurality rather than a majority vote of member nations, Resolution ES-10/14 which requested the International Court of Justice (ICJ) to render an opinion on the legality of the security barrier; Whereas the United States, Australia, Belgium, Cameroon, Canada, the Czech Republic, the Federated States of Micronesia, France, Germany, Greece, Ireland (for itself and in addition on behalf of the Member States and Acceding States of the European Union), Italy, Japan, the Marshall Islands, the Netherlands, Norway, Palau, the Russian Federation, Spain, Sweden, Switzerland, and the United Kingdom submitted objections on various grounds against the ICJ hearing the case or expressing concerns about the advisability of the publication of an advisory judgment;

Whereas a June 30, 2004, decision of a panel of the Israeli Supreme Court, headed by its President and sitting as a High Court of Justice, called on the Government of Israel to take Palestinian humanitarian concerns further into account in the construction of the barrier, even if doing so resulted in greater security risk to Israeli citizens, and accordingly required the Government to alter the route of a specific portion of the barrier near Jerusalem in order to accommodate Palestinian humanitarian concerns;

Whereas the Government of Israel immediately stated that it would respect the decision of its High Court of Justice and has taken action to implement that decision; Whereas the Government of Israel has expressed its commitment that the security barrier is temporary in nature and will not prejudice any final status issues, including final borders;

Whereas on July 9, 2004, the ICJ said in a non-unanimous, non-binding advisory judgment that Israel's security barrier, to the degree it was built outside the pre-June 1967 borders, was illegal and should be dismantled, and that Article 51 of the United Nations Charter did not apply to Israeli actions in self-defense with respect to violence emanating from the West Bank;

Whereas on July 11, 2004, less than two days after the ICJ's advisory judgment, Israeli civilians were murdered by Palestinian terrorists;

Whereas the Palestinians, along with other parties and states, may attempt to use the ICJ's advisory judgment to advance their positions on issues committed to negotiations between the Israelis and Palestinians by advancing resolutions in the United Nations General Assembly, the Security Council, or elsewhere calling for the removal of the barrier and for the imposition of sanctions to force Israel to comply with the advisory judgment; and Whereas the administration of President Bush has reiterated its position that the ICJ should not have agreed to decide a political issue of this nature that should, rather, be resolved through the

Roadmap process leading to a negotiated agreement between Israel and the Palestinians:

Now, therefore, be it Resolved, That the House of Representatives—

(1) reaffirms its steadfast commitment to the security of Israel and its strong support of Israel's inherent right to self-defense;

(2) condemns the Palestinian leadership for failing to carry out its responsibilities under the Roadmap and under other obligations it has assumed, to engage in a sustained fight against terrorism, to dismantle the terrorist infrastructure, and to bring an end to terrorist attacks directed at Israel;

(3) calls on Palestinians and all states, in the region and beyond, to join together to fight terrorism and dismantle terrorist organizations so that progress can be made toward a peaceful resolution of the Israeli-Palestinian conflict;

(4) deplures—

(A) the misuse of the International Court of Justice (ICJ) by a plurality of member nations of the United Nations General Assembly for the narrow political purpose of advancing the Palestinian position on matters Palestinian authorities have said should be the subject of negotiations between the parties;

(B) the July 9, 2004, advisory judgment of the ICJ which seeks to infringe upon Israel's right to self-defense, including under Article 51 of the Charter of the United Nations, and which projects a message of international indifference to the safety of Israeli citizens that can only be detrimental to prospects of achieving a negotiated peace;

(5) regrets the ICJ's advisory judgment, which is likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict;

(6) commends the President and the Secretary of State for their leadership in marshaling opposition to the misuse of the ICJ in this case;

(7) calls on members of the international community to reflect soberly on—

(A) the steps taken by the Government of Israel to mitigate the impact of the security barrier on Palestinians, including steps it has taken by order of its High Court of Justice, without being required to do so by the ICJ; and

(B) the damage that will be done to the ICJ, to the United Nations, and to individual Israelis and Palestinians, by actions taken under color of the ICJ's advisory judgment that interfere in the Roadmap process and impede efforts to

achieve progress toward a negotiated settlement between Israelis and Palestinians;

(8) urges all nations to join the United States in international fora to prevent the exploitation of the ICJ's advisory judgment for political purposes.

Amend the title to read:

Deploing the misuse of the International Court of Justice by a plurality of the United Nations General Assembly for a narrow political purpose.