

Statement of John Quigley
Federalism Committee
Ohio House of Representatives
October 23, 2019
H.C.R. No. 11

It is not within the legal power of Ohio to grant any territorial recognition to foreign entities. H.C.R. No. 11 is thus a nullity. The federal government has exclusive power to recognize foreign governments and to make judgments about their territory.

Successive federal administrations dating from 1967 have taken the position that the status of Jerusalem is undetermined and to be resolved by negotiation. Only the current federal administration has taken a dissenting view that may not last beyond 2021.

The status of Jerusalem is key to any overall resolution of the Arab-Israeli conflict. The federal government has taken a stance against accepting an Israeli claim to Jerusalem because predetermining this issue renders an eventual negotiated settlement extremely difficult. The consistent view of the entire international community is that the status of Jerusalem remains to be determined by negotiation.

On December 18, 2017, the member states of the UN Security Council felt so strongly against recognizing Israel's claim to Jerusalem that they drafted a resolution to condemn the move taken in that direction by the United States. The draft gained the votes of every member of the Security Council other than that of the United States.

To back Israel's claim is to contribute to anti-American sentiment throughout the Middle East. This is most dangerous at a time when US forces, including service personnel from Ohio, are at risk in Iraq and in Afghanistan. H.C.R. No. 11 puts Ohio service personnel at increased risk of anti-American violence like the so-called inside attacks that have occurred in Afghanistan.

To back Israel's claim is also to contribute to discrimination against Arab Christians and Arab Muslims who reside in Jerusalem. Under a statute adopted by Israel's parliament in 2018, Israel defines itself as a state of the Jewish people. That means that Arabs, even if they hold citizenship in Israel, are defined by law as being outside the circle of persons for whom the government exists.

The personal situation of non-citizen Arab Christians and Arab Muslims who reside in Jerusalem is particularly tenuous. They are deemed residents only, meaning if they absent themselves for a time they risk losing their residency status. If they marry a person from elsewhere, they may not be able to gain residency rights for their spouse.

The State of Ohio should not put its imprimatur on policies that discriminate on ethnic grounds and that render tenuous the hold of a population on territory it has inhabited since ancient times.

H.C.R. No. 11 is not well researched. A preamble clause states that Israel gained sovereignty over the entirety of Jerusalem on June 7, 1967. The sponsors should be asked for confirmation of this supposed fact. They will not be able to provide confirmation. Israel did not claim sovereignty when it took control of the eastern portion of the city in the 1967 war. Its foreign minister, Abba Eban, said in the United Nations in June 1967 that Israel was not claiming sovereignty.

Another preamble clause says that recognizing Jerusalem as the capital of Israel would provide for efficacy of diplomacy. Again, the State of Ohio has no role in determining what is the capital of Jerusalem. So H.C.R. No. 11 will not have this effect. Moreover, most countries that recognize Israel conduct diplomacy from offices in Tel Aviv, where the Foreign Ministry maintains office. There has been no difficulty for foreign states in conducting diplomacy from offices in Tel Aviv.

Still another preamble clause states that each sovereign nation may designate its own capital. That is true only if it has sovereignty over the territory it deems to be its capital. Since sovereignty in Jerusalem is yet to be determined, Israel is not authorized to deem Jerusalem to be its capital, and that is why most countries (including the United States with the exception of the current federal administration) do not accept Israeli sovereignty in Jerusalem.

These various inaccuracies in H.C.R. No. 11 indicate that it is not a well thought-out piece of legislation. It should not be passed out of committee.