



BIDEN MUST ENFORCE US LAW ON MILITARY AID TO ISRAEL

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On October 13, 2024, Secretary of State Blinken and Secretary of Defense Austin sent a [letter](#) to top Israeli government officials, calling on Israel to take steps within 30 days to improve the humanitarian situation in Gaza. The letter outlined fifteen concrete measures to increase humanitarian aid, ensure the proper functioning of humanitarian corridors, and end the isolation of northern Gaza. Blinken and Austin warned Israel that failure to implement these measures by the deadline would have consequences, pursuant to President Biden's [National Security Memorandum 20](#) (NSM-20) and its underlying law, [Section 620I](#) of the Foreign Assistance Act. Section 620I [prohibits](#) US military aid to countries that prevent the delivery of adequate humanitarian assistance to areas of armed conflict in which US weapons are deployed.

To uphold US law and send a clear message of disapproval to the Netanyahu government, the Biden Administration should abide by NSM-20 and withhold certain offensive weapons transfers to Israel.

The 30 days for Israel to comply with US demands on improving the humanitarian situation in Gaza are up. Following the deadline, Secretary Blinken [said](#) that Israel had taken some steps, which have yet to take full effect. Simultaneously, eight leading NGOs [released a scorecard](#) outlining how Israel has failed to meet any of the fifteen US government metrics. As reflected in [its own data](#), during the month of October, Israel only permitted an average of [57.7 aid trucks per day](#) to enter Gaza – woefully short of the [350-truck per day metric](#). Despite [opposition](#) from Blinken and Austin, the Knesset adopted legislation [to ban UNRWA](#) – the most [significant and irreplaceable](#) distributor of humanitarian aid to Palestinians – from operating in Israeli territory. This new legislation would [block Israeli coordination](#) with the UN agency in Gaza and the West Bank, hampering its operations there and severely impacting the ability for civilians to receive lifesaving aid and services.

Due to continued Israeli military ground operations and increased [evacuation orders](#), as well as the [looting](#) of aid convoys by violent gangs, Gazans remain [deprived](#) of adequate food, water, shelter, and medical supplies. Food security experts have warned that “[famine is imminent](#)” in parts of northern Gaza. The cold temperatures, rainfall, and potential flooding expected during the upcoming winter season threaten to [worsen](#) the spread of disease and the risk of epidemics. According to the UN Office for the [Coordination of Humanitarian Affairs](#), “conditions of life across Gaza are unfit for human survival,” and Israeli restrictions on humanitarian aid have contributed to these conditions. Significantly and regrettably, the [International Criminal Court](#) “found reasonable grounds to believe that [Prime Minister] Netanyahu and [Defense Minister] Gallant bear criminal responsibility for the war crime of starvation as a method of warfare.”

The US government does have at its disposal the tools to combat this [humanitarian catastrophe](#) by holding Israel to account for its role therein. Prior to leaving office, President Biden should uphold the conditions set out in US law by withholding certain offensive weapons transfers to Israel. In support of this US response, [over a third](#) of the Senate Democratic Caucus, including

centrist Democrats, voted in favor of three [Joint Resolutions of Disapproval](#) (JRDs) introduced this month by Senator Bernie Sanders. The [symbolic vote](#) targeted a total of more than \$1 billion in military aid to Israel, including the sale of tank ammunition, high explosive mortar rounds, and joint direct attack munitions (JDAMs). Crucially, neither the JRDs nor NSM-20 implicate IDF defensive systems, like Iron Dome and David's Sling.

Back in May, 86 members of Congress sent a [letter regarding NSM-20](#) to President Biden, calling on him to enforce US law and hold Israel to account. At least 20 White House staffers recently sent a [letter of dissent](#) to the president urging the same. "You are running out of time to do the right thing, but decisive action could save precious lives in the next two months," the staffers [write](#). Before his term ends, President Biden must fulfill his Constitutional obligation under Article II to "take Care that the Laws be faithfully executed," and withhold the transfer of specific offensive arms to Israel.

President Biden must take this step to send a clear and firm message to Netanyahu that the US will not support the manner in which he continues to wage this war. With only two months left for the Biden Administration to implement this policy change and the likelihood of a policy reversal under a second Trump Administration – given President-elect Trump's pledge to allow Israel to "[finish the job](#)" – any improvement would probably be limited. Nevertheless, taking this step would convey to Netanyahu that his approach is jeopardizing shared national security interests – fomenting radicalism in Gaza, risking a spillover of the humanitarian crisis, and prolonging the war – thereby putting Israeli and Palestinian lives unnecessarily at risk.

President Biden also has an obligation to help preserve the "shared liberal democratic values" that must be at the core of the US-Israel relationship. The president has [committed](#) to putting human rights at the center of US foreign policy. He has [defended](#) the international legal order in the context of Russia's invasion of Ukraine and must live up to these values when it comes to our closest regional ally, Israel, as well. Even during the lame duck period, President Biden should take a stand in favor of international humanitarian law and universal human rights protections.

As President Biden approaches the end of his long career, enforcing US law and trying to save innocent lives would help preserve his own legacy too. Since the start of the war, his administration has given Israel a pass. Taking this step would modestly help to rectify the blank check approach with which the president has long treated Netanyahu. It would demonstrate that the United States does have leverage and is willing to exert pressure in order to protect shared interests and values.

Finally, NSM-20 enforcement by President Biden would indicate the Democratic Party's commitment to holding Israel to the same standards as all US military aid recipients and allies. In turn, party members and voters disaffected by the current policy on Israel-Palestine could be retained and perhaps even reinvigorated. The Democratic opposition of the next four years and a future Democratic administration would surely benefit from the outgoing president redefining Israel-Palestine policy in a way that both ensures Israel's safety and accountability. President Biden can position his party to more effectively navigate this difficult terrain by withholding certain offensive weapons transfers to Israel. At the end of his many decades in public service, he has the power to meaningfully demonstrate US disapproval of Israeli conduct in the Gaza war, hopefully preventing more innocent people from dying. The president must exercise that power now.