

Dodging the Issue: The Biden Administration Report on Israel's Use of US Weapons

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It truly is pushing the envelope of lunacy to assume that this latest revelation was revelatory. US weapons, the winks in Washington find, are being used by the Israeli Defense Forces to kill their opponents, many of them Palestinians, and most of them civilians. These are detailed in a [report](#) ordered by the White House pursuant to [National Security Memorandum 20](#), also known as "National Security Memorandum on Safeguards and Accountability With Respect to Transferred Defense Articles and Defense Services".

NSM-20 requires the Secretary of State to obtain credible and reliable assurances within 45 days from any country engaged in armed conflict in which US defence articles are used. The NSM-20 report, in addition to Israel, considers Colombia, Iraq, Kenya, Nigeria, Somalia and Ukraine. But Israel, by far, is the most significant, given that it is the most prominent recipient of US weapons. As John Ramming Chappell [notes](#) for *Just Security*, these include reported transfers of "bombs, artillery shells, precision guidance kits (which are attached to bombs for targeting purposes), tank ammunition, guided missiles, firearms, drones, various types of ammunition, and other weapons".

The Israeli entry starts off with various qualifying conditions about the horror of the Gaza conflict. Hamas is blamed for embedding "itself deliberately within and underneath the civilian population to use civilians as human shields." The scene is set.

In a pitiful dodge, the report claims it is "difficult to determine facts on the ground in an active war zone", a state of mind that is bound to lend itself to justifications. "The nature of the conflict in Gaza and the compressed review period in this initial report amplify those challenges."

The report acknowledges various “reported incidents to raise serious concerns” that US weaponry is being used in a manner not in conformity with international law. While it was “difficult to assess or reach conclusive findings on individual incidents,” it was “reasonable to assess that defense articles covered under NSM-20 have been used by Israeli security forces since October 7 in instances inconsistent with IHL [International Humanitarian Law] obligations or with established best practices for mitigating civilian harm”.

The discussion is filled with softening qualifiers. Israel had “the knowledge, experience, and tools to implement best practices for mitigating civilian harm in its military operations” but “results on the ground, including high levels of civilian casualties, raise substantial questions as to whether the IDF is using them effectively in all cases.”

Despite concerns about IHL violations, the report accepts that in Israel, there are “a number of ongoing, active criminal investigations pending and there are hundreds of cases under administrative review.” Surely this would be a troubling, rather than assuring fact.

The report goes on to reveal the view of the US Intelligence Community (IC) that, while Israel had “inflicted harm on civilians in military and security operations, potentially using US-provided equipment”, it had “no direct indication of Israel intentionally targeting civilians.” It could, however, “do more to avoid civilian harm.” How high a body count does one need before the intention to kill is evinced?

Mindful of the image of an ally, the report is seemingly less concerned by the staggering civilian death toll than “the impact of Israel’s military operations on humanitarian actors.” Despite the intervention of the US government and engagement between humanitarian organisations with Israeli officials regarding deconfliction and coordination procedures, “the IDF has struck humanitarian workers and facilities.”

Inexplicably, Israel gets a clean bill of health in terms of section 620I of the Foreign Assistance Act, which [bars military aid](#) to a state that “prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United states humanitarian assistance.” This, despite the acceptance that Israeli actions had “delayed or had a negative impact in the delivery of aid to Gaza”. Current levels of aid reaching Palestinian civilians “while improved” remained “insufficient”.

The assessment of Israel’s use of US weapons, all in all, is paltry. It glaringly omits making any specific adverse findings regarding breaches of international law. This proved to be a satisfactory state of affairs for Senator Ben Cardin (D-Md.), Chair of the Senate Foreign Relations Committee, who [agreed](#) with the “assessment that Israel has not violated International Humanitarian Law and that military assistance to support Israel’s security remains in the US interest and should continue.”

Maryland Democratic **Senator Chris Van Hollen** begged to differ, [noting](#) the report’s failure “to do the hard work of making an assessment and ducks the ultimate questions that the report was designed to determine.”

Van Hollen: The NSM-20 report “fails to do the hard work of making an assessment and ducks the ultimate questions that the report was designed to determine.”

— Elizabeth Hagedorn (@ElizHagedorn) [May 10, 2024](#)

In a fuller statement, Van Hollen identifies the “continuation of a disturbing pattern where the expertise and analyses of those working most closely on these issues at the State Department and at USAID have been swept aside to facilitate a predetermined policy outcome based on political convenience.”

While the Biden administration [recently paused](#) the transfer of a weapons shipment to Israel comprising 1,800 2000-pound bombs, and 1,700 500-pound bombs, Congressional sentiment is seemingly in favour of the status quo. Despite the grumbling of some lawmakers, the general view is that the business of supplying the IDF is a sound one. The killing of Palestinian civilians can, in all its ghoulishness and cruelty, continue.

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