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## ***Bombs, guns, treasure: What Israel wants, the US gives***

**Tel Aviv's exceptional status in American weapons policy shields it from scrutiny over alleged human rights abuses**

This article was [co-published](#) with *The New Arab*.

Close watchers of Israel's war in Gaza have faced a question in recent months: If the U.S. is rushing weapons to Israel, then why hasn't the public heard of any arms sales besides two relatively small transfers late last year?

The Washington Post delivered an answer last week. Reporter John Hudson [revealed](#) that the Biden administration has approved over [100 smaller weapons packages](#) for Israel since Oct. 7 that fell under the \$25 million threshold for formally notifying Congress — and thus the public — about the transfers.

In total, these mini sales could add up to more than \$1 billion worth of U.S. military aid.

The decision to deliver U.S. aid in smaller packages is far from unusual. The U.S. government has done so in the past for practical and [nefarious](#) purposes alike; only about 2% of weapons transfers occur above the threshold to notify Congress, according to former officials.

But what is abnormal is the fact that many of those weapons were likely pre-positioned on Israeli territory before the war. Unlike other countries, Israel has a stockpile of American weapons on its soil to which it has privileged access.

When a U.S.-made bomb slams into Gaza, there's a real chance that it started the day in an American facility, [managed](#) by American soldiers and governed by American law.

“It’s clear that it’s been a major source of arms for Israel,” said Josh Paul, a former State Department official who [resigned in protest of U.S. support](#) for Israel’s war. Unfortunately, Paul added, “it’s an opaque process, so it’s hard to say exactly what weapons they’re getting” from the stockpile.

This cache of arms is just a small piece of the puzzle. Taken as a whole, U.S. efforts to shield Israel from human rights restrictions and guarantee its access to continued military aid go further than for any other country, according to experts and former senior U.S. officials.

These advantages include modified human rights vetting, special access to U.S. weapons, and a veto on American arms sales to Israel’s neighbors. Up to this point, the State Department hasn’t [carried out](#) a formal assessment of Israel’s compliance with the law in its Gaza war.

Experts claim these arms transfer cutouts have continued or, in some areas, been expanded since Israel launched its campaign in Gaza, which has left over 31,000 Palestinians [dead](#) and much of the strip’s population in [famine](#) or famine-like [conditions](#). Even last month, as war crime accusations mounted, the U.S. reportedly [gave](#) Israel at least 1,000 precision-guided munitions and artillery shells.

“The bottom line is that either you have human rights standards and legal standards or you don’t,” Paul said. When U.S. officials fail to hold Israel accountable for alleged abuses, “it not only creates an exception for Israel, but it also undermines your diplomacy with other countries,” he told Responsible Statecraft/ The New Arab.

“I have serious concerns that the continued transfer of weapons to Israel is facilitating indiscriminate bombing that may violate international humanitarian law,” Rep. Joaquin Castro told Responsible Statecraft/ The New Arab in a statement. “Congress needs to push the Biden administration to hold Benjamin Netanyahu accountable for any use of U.S. security assistance that violates international law.”

State Department spokesperson Matthew Miller told Responsible Statecraft/ The New Arab that all transfers to Israel since Oct. 7 have followed U.S. law and policy, including notifications to Congress.

“We have followed the procedures Congress itself has specified to keep members well-informed and regularly brief members even when formal notification is not a legal requirement,” Miller said in a statement, adding that claims that the U.S. has cut up weapons packages in order to avoid public scrutiny are “unequivocally false.”

The White House did not respond to a request for comment.

## **Exceptions make the rules**

When a Middle Eastern country asks the U.S. for weapons, American officials' minds go straight to Israel. Would Tel Aviv approve of the transfer? Could new fighter jets give Egypt an edge over Israel on the battlefield if their [peace deal](#) fell apart? Would Israeli officials come around if we offer them better weapons to sweeten the pot?

This line of reasoning doesn't have anything to do with the personal opinions of U.S. officials. In fact, U.S. law explicitly [states](#) that the U.S. must give Israel a "qualitative military edge" over its neighbors to counter a threat from "any individual state or possible coalition of states or [...] non-state actors."

U.S. partners are starkly aware of — and unhappy about — this reality, according to a former senior U.S. military official in Cairo who requested anonymity to speak freely about his experience.

Egyptian officials would sometimes request high-tech weapons just to "watch us squirm and come up with some way to say 'no' without saying the Israelis won't approve it," the former official recalled.

"This is another place where it's very explicit that Israel has a special status that no other country enjoys," said John Ramming-Chappell of the Center for Civilians in Conflict.

This qualitative advantage is enforced by the quantitative side. Since World War II, Israel [is far and away](#) the largest recipient of U.S. military aid. Washington's funding for the Israeli military, which now totals \$3.8 billion per year, [makes up](#) about 16% of its total budget, according to the Congressional Research Service. Israel, which can spend part of its U.S. aid on Israeli weapons, gets this cash in an interest-bearing account in New York, making it one of only two states that get a multimillion-dollar tip on top of baseline U.S. support.

When it comes to human rights, Israel also gets special protections. Take the Leahy law, a statute that prevents specific units of foreign militaries from receiving U.S. aid if American officials have evidence they've committed "gross violations of human rights."

For most countries, Leahy vetting happens before aid is disbursed. Israel gets the equipment first, and the ensuing vetting process [looks different](#) than for other countries. Lower-level State Department officials have found multiple cases in which Israeli units should lose access to American weapons under U.S. law, but those cases are consistently blocked by higher-ups in government who usually don't weigh in on such cases for other countries, [according to Paul](#).

The result is that, unlike Egypt and other U.S. partners in the Middle East, no Israeli unit has ever been sanctioned under the Leahy law despite numerous credible allegations of human rights abuses, a fact that the statute's namesake has [loudly railed against](#).

The State Department has previously justified this disparity by pointing to Israel's judicial system, which U.S. officials believe is capable of handling human rights violations internally. In recent weeks, congressional attention has focused on whether Israel is violating a U.S. law that prevents countries from receiving American weapons if they block U.S. humanitarian aid in whole or in part. While the statute has rarely been enforced, the Biden administration promised to hold states accountable to the law in a recent memorandum.

At this point, many experts and lawmakers [believe](#) Israel is in clear violation of this law given how little aid now enters Gaza. Yet the White House has still not offered a reason — or a formal waiver — to justify its failure to enforce its own commitment.

“I really haven't heard a good response to the question of why we should not apply existing U.S. law [...] to ensure that U.S. military assistance is used in accordance with our values,” [said](#) Sen. Chris Van Hollen (D-Md).

“Given the evidence that Israel is intentionally blocking the passage of humanitarian aid to Gaza, the Biden administration has an obligation to enforce Humanitarian Aid Corridor Act and move towards limitations on further offensive aid to Israel as long as the aid blockade continues,” Rep. Castro said.

### **‘As supportive as possible’**

When the White House moved to expedite weapons transfers to Israel after Oct. 7, it faced an unusual problem. The president already had more than enough authority to make this happen, but officials wanted to signal that they were being “as supportive as possible.” The solution was to further loosen laws around U.S. arms transfers, according to Paul, who still worked in government at the time.

“It's not that those were things that we'd been previously thinking about,” Paul said. “The previous position within government had been [that] Israel already has more than you could possibly want in terms of authorities and funding.”

Now, the Senate's supplemental spending package for Israel has provisions that would [dramatically expand](#) the secretive U.S. stockpile on Israeli soil while [loosening](#) public reporting requirements about transfers from it. A bill with similar changes passed the House as well, signaling broad support for the proposal in Congress.

Alongside already existing loopholes, these new restrictions weaken America's case that it is committed to protecting human rights on the world stage, according to Ramming-Chappell.

“The exceptional status that Israel enjoys in U.S. arms transfer policy and law, when taken in conjunction with the devastating effects of Israel’s current campaign in Gaza, really undermines U.S. leadership and claims to moral authority in the international sphere,” he said.

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