

# [***Biden admin says it's 'reasonable to assess' Israel used American weapons in ways 'inconsistent' with international law***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C0M-5M61-DY7V-G00D-00000-00&context=1516831)

CNN Wire

May 10, 2024 Friday 9:04 PM GMT

Copyright 2024 Cable News Network All Rights Reserved

**Length:** 1805 words

**Byline:** By Jennifer Hansler and Kylie Atwood, CNN

**Dateline:** (CNN)

**Body**

(CNN) &#8212; The [*Biden administration said Friday*](https://s3.documentcloud.org/documents/24658291/national-security-memorandum-report-to-congress-key-findings.pdf) that it is "reasonable to assess" that US weapons have been used by Israeli forces in [*Gaza*](https://www.cnn.com/middleeast/live-news/israel-hamas-war-gaza-news-05-10-24/index.html) in ways that are "inconsistent" with international humanitarian law but stopped short of officially saying Israel violated the law.

The [*report*](https://s3.documentcloud.org/documents/24658291/national-security-memorandum-report-to-congress-key-findings.pdf) which was [*drafted by the State Department*](https://www.cnn.com/2024/05/08/politics/report-looms-biden-israel-international-law) said that investigations into potential violations are ongoing but noted that the US does "not have complete information to verify" whether the US weapons "were specifically used" in alleged violations of international humanitarian law.

"Given the nature of the conflict in Gaza, with Hamas seeking to hide behind civilian populations and infrastructure and expose them to Israeli military action, as well as the lack of USG personnel on the ground in Gaza, it is difficult to assess or reach conclusive findings on individual incidents. Nevertheless, given Israel's significant reliance on U.S.-made defense articles, it is reasonable to assess that defense articles covered under NSM-20 have been used by Israeli security forces since October 7 in instances inconsistent with its IHL obligations or with established best practices for mitigating civilian harm," the report said.

The report, which covers the period from the outbreak of the [*war with Hamas*](https://www.cnn.com/world/middleeast/israel) on October 7 to late April, did not find that Israel has withheld humanitarian aid to Gaza in violation of US law.

Although the report does not find Israel in violation of either of the terms of the memorandum, it is sharply critical of the toll of Israel's military campaign. The findings of the report mark another stark moment in US-Israeli relations in the same week President Joe Biden [*threatened to restrict weapons transfers*](https://www.cnn.com/2024/05/08/politics/joe-biden-interview-cnntv/index.html) if Israel goes ahead with a major offensive in Rafah.

Still, the ultimate finding that Israel's assurances made under the national security memorandum are "credible and reliable" has already raised scrutiny among some lawmakers and incredulity among human rights and humanitarian organizations.

The report did not mandate any actions be taken by the Israeli government, and it does not trigger any policy changes. The administration has largely avoided restricting military assistance to Israel, but in a significant shift ahead of the release of the report, Biden declared publicly in an interview with CNN this week that if Israel proceeds with a major offensive in the Gazan city, he would restrict the transfer of certain offensive weapons to Israel.

The high-stakes report was declassified andtransmitted to Capitol Hill on Friday afternoon. The administration was required to make a determination on those two matters under a February national security memorandum, which Biden issued under pressure from Democratic lawmakers. It was the first time the US government had to make an assessment about Israel's conduct in the seven months of the war with Hamas in Gaza, triggered by the terror group's brutal October 7 attack, that has left more than 34,000 people dead and much of the coastal enclave destroyed.

'Ducked all the hard questions'

Democratic Sen. Chris Van Hollen, the driving force behind the creation of the national security memorandum, expressed disappointment in the report.

"The administration ducked all the hard questions about making the actual determination," the Maryland Democrat told reporters Friday evening. "I think what they're trying to do is make clear that they recognize how bad the situation is, but they don't want to have to take any action to hold the Netanyahu government accountable for what's happening."

Democratic Sen. Jeff Merkley, who is on the Foreign Relations Committee, agreed with Van Hollen's remarks, telling CNN that the report is "a massive diplomatic dodge."

"On the one hand, it says that it's very reasonable to conclude that there's been restriction of aid, it's very reasonable to conclude that our weapons have been used in violation of international law and then it proceeds to say that we just don't want to give an answer on that yet," Merkley said on "Erin Burnett OutFront."

The Oregon Democrat is one of the few members of Congress to step foot in Rafah, visiting in January.

"Clearly, ***politics*** come into this and strategy comes into this, but it is frustrating because it's so important at this moment that we use the leverage we have to persuade Israel to change its conduct," he said.

Earlier Friday, Van Hollen also said that "the purpose of this report was not to provide a snapshot in time" and accused the administration of taking Israel's assurances at "face value," despite investigations by human rights groups finding violations of the law.

However, a senior State Department official said that it was always intended to be retrospective, and that there are processes underway to evaluate ongoing activity. There is no deadline for any conclusions to be made under those processes.

The report notes that "in any conflict involving foreign partners, it is often difficult to make swift, definitive assessments or determinations on whether specific U.S. defense articles or services have been used in a manner not consistent with international law."

"However, there have been sufficient reported incidents to raise serious concerns," it said.

"While Israel has the knowledge, experience, and tools to implement best practices for mitigating civilian harm in its military operations, the 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," the report said.

According to the senior State Department official, the compilation of the report has been a useful tool for the Biden administration to go to the government of Israel and insist on getting information, and on behavior changes. That official said the report would be shared with the Israeli government.

Biden administration officials have for months called on Israel to do more to curb the civilian death toll and allow more aid into Gaza. On humanitarian aid, the report notes the US government "has had deep concerns during the period since October 7 about action and inaction by Israel that contributed significantly to a lack of sustained and predictable delivery of needed assistance at scale, and the overall level reaching Palestinian civilians - while improved - remains insufficient."

However, it states that they "do not currently assess that the Israeli government is prohibiting or otherwise restricting the transport or delivery of U.S. humanitarian assistance within the meaning of section 620I of the Foreign Assistance Act," which bars assistance to governments found to be intentionally restricting aid.

The report calls the "the impact of Israel's military operations on humanitarian actors" a specific area of concern, citing a series of incidents, including the [*deadly strike*](https://www.cnn.com/2024/04/01/middleeast/world-central-kitchen-killed-gaza-intl-hnk/index.html) on a World Central Kitchen aid convoy.

Following that strike last month, Biden warned Israeli Prime Minister Netanyahu in a call that Israel had to do more to address the humanitarian situation or there would be a change in US policy. In recent weeks, US officials said Israel had taken important measures following that conversation, but that more still needed to be done. However, following the launch of "limited" Israeli military operations in Rafah, where millions of Palestinians have fled, humanitarian aid access has once again plummeted.

Intense debate

The report was the subject of intense debate for months across the administration. Human rights organizations have assessed that Israel's military campaign has violated humanitarian law.

Late last month, Amnesty International assessed that US-supplied weapons to Israel have been used "in serious violations of international humanitarian and human rights law, and in a manner that is inconsistent with US law and policy."

An Amnesty International official said Friday that "this report seems like the international version of 'thoughts and prayers': admitting there's a problem but not doing anything meaningful to prevent the further loss of lives."

"Despite President Biden's vague comments earlier this week, his administration today made its position loud and clear: it points fingers and takes swift action when an actor the US government considers an adversary violates international law, but treats the government of Israel as above the law, even while acknowledging the overwhelming evidence that Israeli forces are violating international law and killing Palestinian civilians with US weapons on US taxpayer dime," said Amanda Klasing, National Director of Government Relations and Advocacy at Amnesty International USA.

Van Hollen on Friday said that "it is not credible that the US government has less information than organizations like Amnesty International, Human Rights Watch, Oxfam."

A senior State Department official said they couldn't speak to the standards for the assessments made by those organizations but said the US government process was very diligent and took into consideration any accountability measures undertaken by the Israeli government.

The president also acknowledged to CNN that "civilians have been killed as a consequence of" US-supplied bombs. State Department spokesperson Matthew Miller on Thursday said Biden was speaking to "the tragic loss of civilian life throughout this conflict," not a legal determination under international humanitarian law.

Humanitarian aid organizations also questioned the findings of the report.

"We are confused and dismayed by the Biden administration's report to Congress, and in particular, its findings that Israel is not impeding the provision of aid to Gaza," said Kate Phillips-Barrasso, vice president of global policy and advocacy at Mercy Corps.

"Humanitarian organizations have publicly and repeatedly detailed a litany of obstructions by Israel over the last seven months that have made it impossible to deliver humanitarian assistance to the 2.2 million people in Gaza whose lives depend on it," she said.

"Yet more compelling than the testimony of aid organizations is the horrifying situation of the population of Gaza, trapped in a conflict zone and facing starvation," she continued. "If humanitarian aid were being adequately facilitated-as the NSM calls for-1.1 million people would not be facing catastrophic famine conditions a few miles away from available food. The very fact that the US government has airdropped assistance and spent significant effort and resources constructing a floating pier for maritime deliveries indicates officials had already come to the conclusion that aid delivery was being 'directly or indirectly' impeded."

This story has been updated with additional reporting.

By Jennifer Hansler and Kylie Atwood, CNN

TM & © 2024 Cable News Network, Inc., a Time Warner Company. All rights reserved.

**Load-Date:** May 10, 2024

**End of Document**