

Mind the Gap: U.S. Preferences and Israel's War Conduct

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Executive Summary

This brief provides an examination of Biden administration policies toward Israel during the war that has followed Hamas' October 7, 2023 attack.

The Biden administration has provided Israel with comprehensive military and diplomatic support in conducting its war in Gaza. This support has continued unabated despite the Israeli government's clear violations of U.S. and international law, thwarting of diplomatic talks, and continued expansion of settlements in the West Bank.

As a result, the Biden administration has undercut two of its stated objectives for the Middle East: a two-state solution and a reduction in the regional U.S. military footprint. The Biden government has also pursued a third goal, the mitigation of Iranian threats to U.S. interests, allies, and partners in the region.

Israeli forces have systematically destroyed Gaza over the past year. At least 42,000 Palestinians have died, and millions now live in dire humanitarian conditions. All major systems essential to survival and daily life — communications, electricity, food distribution, medical care, and sewage treatment — have been destroyed.

This devastation is, in large part, the result of unconditional U.S. assistance and diplomatic cover. The United States has armed Israel, failed to use its leverage to influence Israeli policy as Israel repeatedly rebuffed U.S. requests, shielded Israel from U.S. laws that Israel had likely violated, protected Israel at the U.N. Security Council, disregarded Israel's efforts to expand its territory in ways that undermine any possible two-state solution to the Israel-Palestine question, and failed to ensure that Palestinians in Gaza received adequate humanitarian aid.

More generally, the United States has continued to primarily rely on military instruments to prevent a larger regional conflict, rather than using diplomacy as the tool of first resort to lower tensions in the region.

This brief has one recommendation for the Biden administration during its remaining time in office: any further arms deliveries to Israel should be contingent on Israel accepting a full ceasefire on all fronts and agreeing not to establish Israeli settlements in Gaza. Admittedly, such a change in tack seems unlikely at this late hour. Moving forward, those concerned with establishing a stable Israeli-Palestinian peace should question whether the kind of deference to Israeli priorities practiced by the Biden administration can accomplish this goal.

Introduction

The Biden administration has firmly stood by Israel's side for the past year. U.S. military and diplomatic support has been crucial to Israel's conduct in its war in Gaza and will shape the legacy of this latest iteration of Israel-Palestine conflict.¹

These U.S. decisions, which are completely divorced from the official U.S. policy of supporting a two-state solution, have meant aiding an expansionist Israeli state as it seeks to impose its exclusionary territorial vision on the Palestinian people. These decisions have also left an administration with a foreign policy record in the Middle East that has been heavily reliant on military means and stands in stark contrast to its initial desire to reduce the U.S. military presence in the region.

U.S.-manufactured weapons, whose export to Israel's armed forces has been approved and often funded by the U.S. government, have been key to mass Israeli killing and societal destruction in Gaza. Israel's military has killed at least 42,000 Palestinians in Gaza, with over 95,000 wounded, and some estimates are much higher.² The Israeli

¹ This brief is primarily focused on U.S. policy toward Israel-Palestine rather than the war's effects in Lebanon

² "Appendix to letter of July 25, 2024, re: American physicians' observations from the Gaza Strip

military has hit every hospital in Gaza and destroyed apartment buildings, cultural institutions, mosques and churches, roads, schools, universities, and water and sewage facilities. It has killed unprecedented numbers of journalists and humanitarian workers.³ Israel defends this destruction by blaming Hamas' October 7, 2023 attack.

The United States has tremendous potential leverage over Israel, but it has largely chosen not to use it.⁴ There are a number of competing explanations as to why the United States has chosen not to employ its leverage. U.S. officials may feel they are unable to use U.S. leverage to restrain Israeli military decision making, or maybe they have chosen not to do so because they have sympathy for Israel's war effort after the brutality of the October 7 attack. Washington may also view Israel as the leading instrument for weakening Iran and its regional allies like Hamas and Hezbollah — both designated as Foreign Terrorist Organizations by the United States.⁵ Future research into U.S. decision making and U.S.-Israel interactions may well shed light on these competing explanations.

This brief provides an examination of the Biden administration's policy toward Israel since the Gaza conflict began. It first examines relevant goals that the Biden administration had stressed before taking office: reaching a two-state solution, reducing the military emphasis of U.S. policy in the Middle East, and weakening Iran. It then delves into the expansionist, territorial aim of the current Israeli government, especially

since October 07, 2023," Squarespace, accessed November 06, 2024,

 $\frac{https://static1.squarespace.com/static/66e083452b3cbf4bbd719aa2/t/66f5f8afa82cdd4e0f0cd607/172}{7396015767/Appendix+%281%29.pdf}.$

³ "One year and climbing: Israel responsible for record journalist death toll," Committee to Protect Journalists, October 04, 2024,

https://cpj.org/2024/10/one-year-and-climbing-israel-responsible-for-record-journalist-death-toll/; and Stephen Semler, "Is Israel intentionally attacking aid workers?" *Responsible Statecraft*, September 11, 2024, https://responsiblestatecraft.org/israel-hamas-war-gaza/.

⁴ On current U.S. failures to restrain Israel, see Matthew Duss, "Joe Biden Chose This Catastrophic Path Every Step of the Way," *The New Republic*, October 07, 2024,

https://newrepublic.com/article/186695/joe-biden-chose-gaza-catastrophic-path. On past U.S. efforts to restrain Israel, see Jeremy Pressman, *Warring Friends: Alliance Restraint in International Politics* (Ithaca: Cornell University Press, 2008).

⁵ Government of the United States, "Foreign Terrorist Organizations," U.S. Department of State, accessed November 01, 2024, https://www.state.gov/foreign-terrorist-organizations/.

its annexation of the West Bank and its deep commitment to the settlement project. The brief then reviews the many different facets of U.S. policy toward Israel-Palestine over the past year. It concludes by emphasizing the negative impact these policies have had on the stated goals of the Biden administration.

The best way to shift the course of events in a positive direction is for the Biden administration to use its remaining time in office to immediately make significant aid and arms deliveries to Israel contingent on the Israeli government accepting a full ceasefire on all fronts and agreeing not to establish Israeli settlements in Gaza. A full ceasefire is a long overdue humanitarian move that would help advance U.S. aims as well.

Biden administration goals

The Biden administration articulated three goals that are highly relevant to this past year of fighting. One stated goal is the desire to bring an end to the Israel-Palestine conflict via a two-state solution — the establishment of a Palestinian state alongside Israel. A second stated goal is the desire to reduce the overall U.S. footprint in the Middle East, especially militarily. A third goal is to contain Iranian threats to U.S. interests, allies, and partners in the region.

Even before the 2020 U.S. presidential election, the Biden campaign was calling for a two-state solution. Whereas the Republican Party has not endorsed a two-state solution since its 2012 election platform, the Democratic Party's 2020 platform supported Israeli-Palestinian compromise: "Democrats oppose any unilateral steps by either side — including annexation — that undermine prospects for two states. Democrats will continue to stand against incitement and terror. We oppose settlement expansion." The party supported a two-state solution and opposed annexation and settlement expansion

⁶ "The American Presidency Project: 2020 Democratic Party Platform," University of California, Santa Barbara, August 17, 2020, https://www.presidency.ucsb.edu/documents/2020-democratic-party-platform.

(directed at Israel) and incitement and terror (directed against Palestinian organizations).

As president, Biden continued his rhetorical support of the two-state solution. The 2022 National Security Strategy quoted Biden from his visit to the West Bank in July 2022: "Two states along the 1967 lines, with mutually agreed swaps, remain the best way to achieve equal measure of security, prosperity, freedom, and democracy for Palestinians as well as Israelis." He reaffirmed this verbal commitment in his 2024 State of the Union address: "As we look to the future, the only real solution to the situation is a two-state solution over time."

Biden also sought a different U.S. approach throughout the Middle East and North Africa. In its 2020 platform, Democrats favored modifying the U.S. role in the Middle East but without creating a sense of abandonment among U.S. allies. On the one hand, the platform stated that the Middle East is a region where "we and our partners still have enduring interests." On the other hand, it also stated that "Democrats believe it's past time, however, to rebalance our tools, engagement, and relationships in the Middle East away from military intervention — leading with pragmatic diplomacy to lay the groundwork for a more peaceful, stable, and free region." In other words, more diplomacy and fewer military answers. In the 2022 National Security Strategy, the Biden administration articulated the same preference: "We have too often defaulted to military-centric policies underpinned by an unrealistic faith in force and regime change to deliver sustainable outcomes, while failing to adequately account for opportunity costs to competing global priorities or unintended consequences."

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⁷ Government of the United States, "National Security Strategy: October 2022," The White House, October 12, 2022, 42,

https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Securitv-Strategy-10.2022.pdf.

⁸ Government of the United States, "2024 State of the Union: President Biden's State of the Union Address," The White House, March 07, 2024, https://www.whitehouse.gov/state-of-the-union-2024/.

⁹ "National Security Strategy," The White House.

On Iran, Biden officials expressed concern about Iranian opposition to U.S. and allied interests. At first, they focused on the danger of the Iranian nuclear program and sought to revive the diplomatic agreement that restricted that program: the Joint Comprehensive Plan of Action, JCPOA. The 2020 Democratic Party platform called the JCPOA "the best means to verifiably cut off all of Iran's pathways to a nuclear bomb." 10 But those nuclear talks failed. Biden administration officials were unable to undo the impact of the U.S. withdrawal from the JCPOA under the Trump administration.

With neither the JCPOA nor a new diplomatic agreement, U.S. policy came to be more focused on military tools and highlighted the general Iranian threat to allies and regional stability. 11 The United States wanted to mitigate the Iranian threat: "We will continue to work with allies and partners to enhance their capabilities to deter and counter Iran's destabilizing activities."12 In 2024, President Biden said, "Creating stability in the Middle East also means containing the threat posed by Iran." This meant working with U.S. allies, especially Israel and Saudi Arabia.

These three goals — two states, a less military-reliant presence, and mitigating the Iranian threat — are interrelated in important ways. First — as the past year demonstrates – when Middle East conflict heats up, the involvement of the U.S. military deepens, whether through missile defense, intelligence sharing, or aircraft carrier deployments. If the Israeli-Palestinian conflict were successfully addressed, that would be one less pretext for U.S. military involvement in the Middle East.

Second, the possibility of an Israeli-Saudi-U.S. alignment to combat Iranian influence is predicated on a two-state solution. A common view is that if Israel and the United States subvert Palestinian self-determination, thereby precluding two states, the likelihood of Saudi Arabia explicitly joining an anti-Iranian front would decline

¹⁰ "The American Presidency Project," University of California, Santa Barbara.

¹¹ For an argument that Israel's escalatory policy versus Iran is intended to undermine the possibility of U.S.-Iran diplomacy, see Paul Pillar, "Biden is letting Israel trap the U.S. into war with Iran," Responsible Statecraft, October 07, 2024, https://responsiblestatecraft.org/israel-war/.

¹² "National Security Strategy," The White House. ¹³ "2024 State of the Union," The White House.

significantly. At the same time, an alternate view is that Saudi Arabia might ally with Israel if Israel allows a Palestinian "enclave" — something less than a fully independent state — in which Saudi Arabia and the United Arab Emirates have significant influence in that enclave.¹⁴

Third, addressing the Iranian threat could be done through diplomacy. If the response by the United States or its allies relies on military confrontation, the United States would have, in the words of the Biden administration's 2022 National Security Strategy, "defaulted to military-centric policies" rather than avoided them.

Netanyahu government goals and action

While the Israeli government's initial fighting was driven by defense against the Hamas attack of October 7, 2023, the war is also based on the driving premise of Israeli territorial policy: the settlement and annexation of the West Bank. Prior to the October attack, the Israeli government viewed maintaining Hamas as a key tool in thwarting a two-state solution — both in terms of Hamas' aims and the way its presence undermined a unified Palestinian push for independence. The Netanyahu government is highly unlikely to pursue political pathways and diplomatic offramps that jeopardize its complete hold on the West Bank.¹⁵

The Israeli government is committed to annexing the West Bank. With the 2018 Nation-State Law, Israel cemented its belief that there is only one claim to the Holy

¹⁴ For example, U.S. Senator Lindsey Graham has expressed this view. See Drop Site (@DropSiteNews), "A U.S.-backed 'Emirate' in Palestine," X (formerly known as Twitter), October 09, 2024, https://x.com/DropSiteNews/status/1843999642448748674.

¹⁵ One way Netanyahu and other Israeli politicians have expressed this is in total opposition to a two-state solution. As Netanyahu said in an interview with *Time*: "It's part of our homeland. We intend to stay there." See Eric Cortellessa, "Read the Full Transcript of Benjamin Netanyahu's Interview With TIME," *Time*, August 08, 2024, https://time.com/7008852/benjamin-netanyahu-interview-transcript/. See also, Benjamin Netanyahu (@netanyahu), "I will not compromise on full Israeli security control over the entire area west of Jordan — and this is contrary to a Palestinian state," X (formerly known as Twitter), January 20, 2024, https://x.com/netanyahu/status/1748764135716749568; and Jacob Magid, "Knesset votes overwhelmingly against Palestinian statehood, days before PM's U.S. trip," *The Times of Israel*, July 18, 2024.

https://www.timesofisrael.com/knesset-votes-overwhelmingly-against-palestinian-statehood-days-before-pms-us-trip/.

Land: the claim of the Jewish people. This strongly implies the Palestinian claim has no standing. When this Israeli government took office in December 2022, its nonbinding guidelines delineated the geography of that claim, including what it calls the West Bank, Judea and Samaria: "The Jewish people have an exclusive and inalienable right to all parts of the Land of Israel. The government will promote and develop the settlement of all parts of the Land of Israel — in the Galilee, the Negev, the Golan, and Judea and Samaria." ¹⁶

Furthermore, by placing a civilian minister in charge of Israel's West Bank occupation, this government has annexed the West Bank. Moving from military occupation to civilian authority is annexation.¹⁷ As that minister stated privately, "We created a separate civilian system."¹⁸

In this context, multiple Israeli policies cemented the importance of permanent Israeli rule of the West Bank. Why did Netanyahu explicitly allow Qatari funding of Hamas to the tune of billions of dollars over a decade? Hamas was against a two-state solution. Thus, what better way to avoid a two-state solution Israel did not want by emboldening a Palestinian armed group that also opposed two states?¹⁹ A relatively stronger Hamas meant a relatively weaker Mahmoud Abbas-led Palestinian Authority, the most prominent Palestinian proponent of two states.

¹⁶ Carrie Keller-Lynn and Michael Bachner, "Judicial reform, boosting Jewish identity: The new coalition's policy guidelines," *The Times of Israel*, December 28, 2022,

 $[\]frac{https://www.timesofisrael.com/judicial-reform-boosting-jewish-identity-the-new-coalitions-policy-guidelines/.}{$

¹⁷ Tamar Megiddo, Ronit Levine-Schnur, and Yael Berda, "Israel is Annexing the West Bank. Don't be Misled by its Gaslighting," *Just Security*, February 09, 2023,

https://www.justsecurity.org/85093/israel-is-annexing-the-west-bank-dont-be-misled-by-its-gaslighting/; and Dahlia Scheindlin and Yael Berda, "Israel's Annexation of the West Bank Has Already Begun," Foreign Affairs, June 09, 2023,

https://www.foreignaffairs.com/israel/israels-annexation-west-bank-has-already-begun.

¹⁸ Natan Odenheimer, Ronen Bergman, and Patrick Kingsley, "Israeli Official Describes Secret Government Bid to Cement Control of West Bank," *The New York Times*, June 21, 2024,

https://www.nytimes.com/2024/06/21/world/middleeast/israel-west-bank-netanyahu-bezalel-smotrich.html.

¹⁹ Mark Mazzetti and Ronen Bergman, "Buying Quiet': Inside the Israeli Plan That Propped Up Hamas," *The New York Times*, December 10, 2023,

https://www.nytimes.com/2023/12/10/world/middleeast/israel-gatar-money-prop-up-hamas.html.

In addition, just having Hamas viable and around to compete with Fatah, the Palestinian National Liberation Movement, meant helping perpetuate a fragmented Palestinian national movement. The drive for Palestinian independence alongside Israel, like any national liberation movement, is weaker when divided.²⁰ In short, a powerful but not too powerful Hamas was the perfect foil for a vision of "Greater Israel."

During the war from 2023 until the present, an additional expansionist aim has developed among some on the Israeli right: the desire to return Israeli settlers to Gaza. A minority of Israelis, perhaps as large as 38 percent, think the return of Israeli settlers is a good idea. The Israeli military currently has cleared two corridors in the southern — Philadelphi — and central Gaza strip. These could serve as a lasting base of operations, not only for the Israeli military but also for the Israeli settlers. Israel appointed a military officer, BGen. Elad Goren, to oversee civilian affairs in Gaza. Previously, he had served in Israel's Coordinator of Government Activities in the Territories, COGAT, which has overseen civilian affairs in the West Bank; COGAT is part of the Defense Ministry. According to a senior Israeli defense official commenting on the appointment, "This is not a temporary project; this position will be with us for years to come." Eran Etzion, a former deputy head of Israel's National Security Council, noted that Netanyahu's demand in July 2024 for continued Israeli control of the Philadephi corridor in Gaza "means a full military occupation of Gaza, without a time limit." Accordination of Gaza, without a time limit.

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²⁰ Peter Krause, "The Structure of Success: How the Internal Distribution of Power Drives Armed Group Behavior and National Movement Effectiveness," *International Security* 38, no. 3 (2014): 72-116.

²¹ "Almost 4 in 10 Israelis back a revival of Jewish settlements in Gaza, poll finds," *The Times of Israel,* January 31, 2024,

https://www.timesofisrael.com/almost-4-in-10-israelis-back-a-revival-of-jewish-settlements-in-gaza-poll-finds/; and Jeremy Pressman, "Greater-Israel Advocates see Gaza Crisis as Opportunity for Expansion," Informed Comment, February 06, 2024,

https://www.juancole.com/2024/02/advocates-opportunity-expansion.html.

²² Yoav Zitun, "Cell towers and water lines: A closer look at Israel's expanding foothold in Gaza," *ynetnews*, November 09, 2024, https://www.ynetnews.com/article/rjevxw6111x.

²³ Yoav Zitun, "As Israel's role deepens, IDF assigns senior officer to oversee Gaza relief operations," *ynetnews*, August 29, 2024, https://www.vnetnews.com/article/sk11ko006ia.

²⁴ For a translation of his tweet (originally in Hebrew), see Philip (@rulesbasedworld), "Netanyahu does not put on the table," X (formerly known as Twitter), August 31, 2024, https://x.com/rulesbasedworld/status/1829887455551799660.

Turning to civilian settlers, Daniella Weiss, a long-time leader of extremists in the Israeli settlement movement, said on Israeli television: "In my opinion, in less than a year there will be settlers living in Gaza." She added: "The moment Netanyahu said that there would be a long-term military presence in Gaza, I said, 'this is it. This is an invitation to the dance'... I call this copy/paste [as] what we did in the West Bank and also in the Golan."²⁵

Although the spotlight has been on Gaza, Israel also has been prioritizing expansionist policies on the ground in the West Bank. Governmental and non-governmental Israeli actors have been extremely active in the West Bank over the past year, even with the fighting in Gaza. They have been driving Palestinians from their communities, seizing land, expanding Israeli settlements, invading Palestinian cities, destroying infrastructure, and attacking militants. One Israeli minister tied together the current war and annexing the West Bank: "That is our answer to [the late Hamas leader Yahya] Sinwar ... The new Nazis need to pay a price in territory that will be taken from them forever both in Gaza

²⁵ Younis Tirawi (@ytirawi), "The moment Netanyahu said there would be a long-term military presence in Gaza," X (formerly known as Twitter), August 12, 2024,

https://x.com/ytirawi/status/1822985520290341360; "Daniela Weiss: "The only path to victory is to resettle Gaza," *Israel National News*, June 19, 2024, https://www.israelnationalnews.com/news/391740; and Janis Laizans and Michal Yaakov Itzhaki, "On the edge of Gaza, Israeli settlers want back in," Reuters, October 21, 2024,

https://www.reuters.com/world/middle-east/edge-gaza-israeli-settlers-want-back-2024-10-21/. ²⁶ Louisa Loveluck, "Settler violence is erasing Palestinian communities in the West Bank," *The Washington Post*. November 09, 2023.

https://www.washingtonpost.com/world/2023/11/09/west-bank-israel-settlers-violence/; Julia Frankel, "Israel turbocharges West Bank settlement expansion with largest land grab in decades," Associated Press, July 03, 2024,

https://apnews.com/article/israel-palestinians-hamas-war-news-07-03-2024-033deab379a16efdf9989de 8d6eaf0f8; and "Timeline: Israel's deadly seven-day raid in occupied West Bank's Jenin," Al Jazeera, September 03, 2024,

https://www.aljazeera.com/news/2024/9/3/timeline-israels-deadly-seven-day-raid-in-occupied-west-bank s-jenin. From earlier, see also Leila Molana-Allen, "Israel steps up raids and deadly strikes in occupied West Bank," PBS NewsHour, October 24, 2023,

https://www.pbs.org/newshour/show/israel-steps-up-raids-and-deadly-strikes-in-occupied-west-bank; and Tahani Mustafa, "With All Eyes on Gaza, Israel Tightens Its Grip on the West Bank," International Crisis Group, November 24, 2023,

https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine/all-eyes-gaza-israel-tightens-its.

and in Judea and Samaria."²⁷ This is further evidence that what drives Israeli policymaking is expansion through settlements.

Over the past year, Israeli forces have destroyed Gaza. It is uninhabitable, yet millions of Palestinian people remain in desperate humanitarian circumstances, having been displaced from their homes. Most of those homes are damaged or destroyed. Hundreds of thousands of Palestinians are dead, wounded, or missing. Israel has destroyed every major infrastructural system — communications, electricity, food distribution, medical care, sewage treatment, transport, and water treatment. Rebuilding will probably take generations. The war has presented an opportunity for Israel to crush one societal and territorial pillar of a future Palestinian state, Gaza, and Palestinian life there.

In sum, avoiding or ending fighting between Israelis and Palestinians and instead moving toward two states requires the holder of the occupied territory, Israel, to relinquish it. Yet Israel is doing just the opposite. It is deepening its hold on the occupied lands and further repressing Palestinian nationalism. This Israeli approach leaves no room for conflict resolution based on territorial compromise.³⁰ Closing off pathways based on mutual compromise leaves confrontation as the likeliest path.

The Trump administration's peace plan from early 2020 and Likud policy going back to then-Prime Minister Menachem Begin's autonomy plan are efforts to give Israel everything it wants territorially and still placate Palestinians with greatly constrained

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²⁷ Elisha Ben Kimon and Itamar Eichner, "Smotrich's annexation dream, the courtship of Trump – and the minefield: What price will he demand?" *ynetnews*, November 11, 2024, https://www.ynet.co.il/news/article/r1ghej1zyl.

²⁸ See "Appendix to letter of July 25, 2024," Squarespace.

²⁹ Aaron Steckelberg, Janice Kai Chen, Júlia Ledur, and Ruby Mellen, "The Long Road to Reconstruction," *The Washington Post*, October 06, 2024,

https://www.washingtonpost.com/world/interactive/2024/gaza-reconstruction-rebuild-process-plans/.
That — as well as Biden policy — assumes a two-state solution is still viable. For an argument that it is not, see Ian Lustick, *Paradigm Lost: From Two-State Solution to One-State Reality* (Philadelphia: University of Pennsylvania Press, 2019).

political power.³¹ The idea that these types of proposals could serve as a genuine form of conflict resolution has always been a fig leaf and a fantasy. A movement with the international legitimacy of the Palestinian nationalist cause is not going to submit to something so far from the minimal Palestinian demands regarding statehood. Even if external parties might accept a watered-down "solution" — and that remains uncertain — it is unlikely that Palestinian organizations would do so.

U.S. policy during the war

At almost every turn during the war, the U.S. government has aided Israel's war effort and thereby bolstered the underlying Israeli strategic goal of annexation rather than territorial compromise. The United States armed Israel, failed to use its leverage to influence Israeli policy as Israel repeatedly rebuffed U.S. entreaties, shielded Israel from U.S. laws that Israel had likely violated, protected Israel at the U.N. Security Council, emphasized Israeli self-defense while disregarding Israel's expansionist motives, and completely failed in ensuring that Palestinians in Gaza received adequate humanitarian aid. The U.S. military has also been drawn into fighting, such as the bombing of Houthi forces in Yemen and shooting down Iranian missiles targeting Israel.

Arms

It is hard to imagine Israel could have caused this level of destruction in Gaza without the provision of U.S. bombs, U.S. jet fuel, and U.S. intelligence.³² The United States also provided important military items before the war, including the planes that dropped U.S. bombs on Gaza.

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³¹ Government of the United States, "Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People," The White House, January 2020,

 $[\]underline{\underline{https://trumpwhitehouse.archives.gov/wp\text{-}content/uploads/2020/01/Peace-to-Prosperity-0120.pdf}.$

³² On intelligence, see Warren P. Strobel and Nancy A. Youssef, "U.S. and Israel's 'Unprecedented' Intelligence Sharing Draws Criticism," *The Wall Street Journal*, March 31, 2024, https://www.wsj.com/politics/national-security/u-s-and-israels-unprecedented-intelligence-sharing-draws-criticism-a85979b4.

For example, on October 31, 2023, Israel dropped a U.S.-made 2,000-pound bomb on residential buildings in the Jabalia refugee camp, killing 120. On January 9, 2024, an Israeli plane dropped a U.S.-made Boeing GBU-39 bomb on a residential building, killing 18. On May 13, 2024, Israel used the same type of U.S.-made bomb on a school serving as a shelter, killing approximately 30. On June 6, 2024, Israel dropped GBU-39 bombs on the al-Sardi school in Nusreit, also serving as a shelter for displaced families, killing 40. On June 23, 2024, Israel fired a U.S.-made Hellfire missile at a health clinic in Gaza City, killing 5.³³

Often, Israel claimed the site was a military target. U.S.-made planes repeatedly dropped U.S.-made bombs on the people and structures of Gaza.

Israel also has domestic weapons manufacturers and stored weapons. However, it would not have been able to rapidly replace the massive flow of arms from the United States. It would have had no choice but to scale back its attack and be more circumspect in its target selection. "Without the U.S. weapons, Israel cannot fight," a former intelligence director for Israel's Mossad intelligence agency stated. A senior Israeli Air Force official told Haaretz that "without the Americans' supply of weapons to the Israel Defense Forces, especially the air force, Israel would have had a hard time sustaining its war for more than a few months."

Leverage

Israel may have outmaneuvered the United States on key issues, most prominently its invasion of Rafah and the as-yet-unsigned Hamas-Israel ceasefire agreement. Israel defied the United States on what U.S. officials claimed were top U.S. priorities, but

³³ Stephen Semler, "Gaza breakdown: 20 times Israel used U.S. arms in likely war crimes," *Responsible Statecraft*, August 25, 2024, https://responsiblestatecraft.org/us-weapons-gaza/.

³⁴ Shira Rubin and Ellen Nakashima, "Netanyahu tells U.S. that Israel will strike Iranian military, not nuclear or oil, targets, officials say," *The Washington Post*, October 15, 2024,

https://www.washingtonpost.com/world/2024/10/14/israel-iran-strike-nuclear-oil-military/.

³⁵ Yossi Melman, "Israeli Air Force Official: Without U.S. Aid, Israel Couldn't Fight Gaza Beyond a Few Months," *Haaretz*, September 02, 2024,

https://www.haaretz.com/israel-news/2024-09-02/ty-article-magazine/.premium/without-u-s-aid-israel-would-have-struggled-to-fight-in-gaza-beyond-a-few-months/00000191-aec2-d875-a3bb-aed7e2e30000.

Washington never stopped the flow of U.S. military aid or imposed meaningful consequences, with the exception of pausing one military shipment in May 2024.

On May 8, 2024, Biden said, "I made it clear that if they [Israel] go into Rafah — they haven't gone in Rafah yet — if they go into Rafah, I'm not supplying the weapons that have been used historically to deal with Rafah, to deal with the cities, that deal with that problem." A few days later, Secretary of State Antony Blinken changed the wording to: "If Israel goes in with a major military operation in Rafah, in that case, there are certain systems that we will not provide to Israel that would aid that effort."³⁶

In reality, Israeli forces caused major destruction in Rafah. U.S. officials said, "the offensive in Rafah was carried out with much more precision than Israel's other operations in Khan Younis and Gaza City."³⁷ But in early July 2024, when the Israeli military brought foreign reporters on a supervised visit into Rafah, The Wall Street Journal reported it was "a flattened wasteland" where "[b]uilding after building had been reduced to piles of rubble."³⁸ The New York Times added: "Streets once bustling with life were now a maze of rubble. Everyone was gone. More than a million people have fled to avoid an Israeli onslaught that began two months ago."³⁹

Future research on these official U.S.-Israel interactions will help assess whether Washington was trying to influence Israeli decisionmaking or if U.S. rhetoric was just lip service. One possibility is that Israel ignored U.S. counsel. Or, perhaps the U.S. requests were too narrow to prevent the utter destruction of Rafah. Another option is that the U.S.

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³⁶ Kevin Liptak, "How Joe Biden's red line on Israel went from a 'parlor game' to a murky millstone," CNN, May 30, 2024, https://www.cnn.com/2024/05/30/politics/joe-biden-red-line-israel/index.html.

³⁷ John Hudson, "U.S. to again ship 500-pound bombs to Israel, reversing suspension," *The Washington Post*, July 10, 2024,

https://www.washingtonpost.com/national-security/2024/07/10/us-israel-500-pound-bomb/.

³⁸ Dov Lieber, "On the Ground in Rafah: Flattened Buildings and a Shattered Gateway," *The Wall Street Journal*, July 07, 2024,

https://www.wsj.com/world/middle-east/on-the-ground-in-rafah-flattened-buildings-and-a-shattered-gate wav-e81e745a.

³⁹ Adam Goldman, "In Rafah, We Saw Destruction and the Limits of Israel's Gaza Strategy," *The New York Times*, July 07, 2024,

https://www.nytimes.com/2024/07/07/world/middleeast/israel-gaza-war-rafah-destruction.html.

government privately gave Israel a green light, only offering some mild, meaningless protestations for public consumption.

A second example came on May 31, 2024, when Biden outlined a ceasefire plan directly based on an Israeli ceasefire plan. By early July, the U.N. Security Council had endorsed it, and Hamas had accepted it.⁴⁰ What did Israel do? It added more conditions; suddenly, Netanyahu demanded Israel retain the Philadelphi corridor. The ceasefire and hostage exchange talks fell apart. In the end, there was no agreement.

Publicly, U.S. officials said Hamas had to accept the agreement.⁴¹ Not only did the Israeli government play a major role in thwarting the agreement, but it also completely avoided public accountability from Washington. One can imagine what Netanyahu took away from that type of U.S. response: Israeli impunity with regard to the United States.

Why did Israel prevail in both cases of allied disagreement? Because the United States would not use any of its material leverage. With the ceasefire talks, the United States would not even publicly put any responsibility on the Israeli government for the failure of the talks. Israel might have rejected U.S. demands even if the U.S. government had denied certain aid and arms. But there is a physical aspect, as well, beyond the level of the influence of U.S. leverage: Israel cannot drop bombs on Gaza that have never left the United States.

On one occasion in May 2024, about seven months into the war, the Biden administration did pause the delivery of 1,800 2,000-pound bombs and 1,700 500-pound bombs. Israel and its advocates pressed for the resumption of delivery. In July 2024, the United States resumed the shipment of the 500-pound bombs.⁴²

⁴⁰ "U.N. Security Council endorses U.S.-sponsored Gaza ceasefire resolution," Al Jazeera, June 10, 2024, https://aie.io/1isqf4.

⁴¹ Raffi Berg, "Hamas rebuffs Blinken blame for elusive ceasefire," BBC, June 13, 2024, https://www.bbc.com/news/articles/czrrw93g9xyo; and Jennifer Hansler, Alex Marquardt, and Michael Conte, "Blinken says Israel has agreed to U.S. proposal to close remaining gaps on ceasefire deal and calls on Hamas to do the same," CNN, August 19, 2024,

https://www.cnn.com/2024/08/19/middleeast/blinken-israel-herzog-ceasefire-talks-intl-hnk/index.html. 42 Hudson, "U.S. to again ship 500-pound bombs to Israel."

U.S. laws

Although U.S. experts determined that Israel violated a U.S. law regarding humanitarian aid and arms use — Section 620I of the U.S. Foreign Assistance Act — the top levels of the Biden administration decided not to enforce the law. With the exception of the one May 2024 pause unrelated to the nondelivery of humanitarian assistance, U.S. military aid kept flowing to Israel. Even after some U.S. officials found that Israel was preventing the delivery of humanitarian aid to Palestinians in Gaza in violation of U.S. law, the Biden administration did not freeze aid. Blocking the delivery of U.S.-supplied humanitarian aid is a violation of the U.S. Foreign Assistance Act and requires the United States to freeze military aid to the offending country. The U.S. Agency for International Development, USAID, reported to Blinken "instances of Israeli interference with aid efforts, including killing aid workers, razing agricultural structures, bombing ambulances and hospitals, sitting on supply depots and routinely turning away trucks full of food and medicine." The head of the Bureau of Population, Refugees and Migration at the U.S. Department of State came to a similar conclusion.

Blinken's public statement sided with other U.S. officials, including the U.S. Ambassador to Israel, who believed Israel was trying to move humanitarian aid. Publicly, Blinken said: "We do not currently assess that the Israeli government is prohibiting or otherwise restricting the transport or delivery of U.S. humanitarian assistance."⁴⁶ Nothing he said

https://www.reuters.com/world/middle-east/some-us-officials-say-internal-memo-israel-may-be-violating-international-law-2024-04-27/.

⁴³ On the exception, see Zeke Miller and Aamer Madhani, "U.S. paused bomb shipment to Israel to signal concerns over Rafah invasion, official says," Associated Press, May 08, 2024, https://apnews.com/article/biden-bombs-gaza-netanyahu-israel-rafah-432aa51e3569d1a73b22273295b1 a53f; and Hudson, "U.S. to again ship 500-pound bombs to Israel."

⁴⁴ This a direct quotation from *ProPublica's* characterization of the report, not the USAID report itself. Brett Murphy, "Israel Deliberately Blocked Humanitarian Aid to Gaza, Two Government Bodies Concluded. Antony Blinken Rejected Them," *ProPublica*, September 24, 2024,

https://www.propublica.org/article/gaza-palestine-israel-blocked-humanitarian-aid-blinken. See also Humeyra Pamuk, "Exclusive: Some U.S. officials say in internal memo Israel may be violating international law in Gaza," Reuters, April 27, 2024,

⁴⁵ Murphy, "Israel Deliberately Blocked Humanitarian Aid to Gaza."

⁴⁶ Murphy, "Israel Deliberately Blocked Humanitarian Aid to Gaza."

indicated any divergence inside the U.S. government or that those most experienced in humanitarian relief activity — USAID — disagreed.

Israel's special treatment with regard to U.S. law precedes October 7, 2023. The United States also has a specific law known as the Leahy Law to prevent arms from going to military units that commit human rights abuses. For over seven years, Charles Blaha led the office at the U.S. Department of State that ensures that foreign security units comply with the Leahy Law. Blaha detailed many ways in which Israel is given special treatment in this process. For Israel alone, the process involves frequent high-level — not just expert — involvement. For Israel, "a determination that any Israeli unit is Leahy-ineligible rests with the deputy secretary of state. This is true for no other country in the world." Israel is offered a chance to respond to any allegations, though, again, "this is true for no other country in the world." According to Blaha, the application of the law mirrors the procedures: Israel is treated differently, with incredible deference. The Biden administration rebuffed calls to invoke the Leahy Law based on Israel's military conduct.

Veto

The United States vetoed three U.N. Security Council resolutions calling for a ceasefire (October 18, 2023; December 8, 2023; and February 20, 2024).⁴⁹ Even after it abstained on U.N. Security Council Resolution 2728 on March 25, 2024, Linda Thomas-Greenfield, U.S. ambassador to the United Nations, immediately undermined the U.S. abstention by

⁴⁷ Charles O. Blaha, "Israel and the Leahy Law," *Just Security*, June 10, 2024, https://www.justsecurity.org/96522/israel-leahy-law/; Cristina Maza, "Q+A with Josh Paul," *National Journal*, September 11, 2024,

https://www.nationaljournal.com/s/726145/qa-with-josh-paul/?unlock=DC5681BY64QPUZNE; and Pamuk, "Exclusive: Some U.S. officials say in internal memo Israel may be violating international law in Gaza."

⁴⁸ "Van Hollen Joins Welch, Colleagues Calling for Consistent Application of Leahy Law to IDF," Chris Van Hollen, U.S. Senate, May 07, 2024,

https://www.vanhollen.senate.gov/news/press-releases/van-hollen-joins-welch-colleagues-calling-for-consistent-application-of-leahy-law-to-the-idf.

⁴⁹ United Nations, "U.N. Security Council Meetings and Outcomes Tables," U.N. Security Council, accessed September 30, 2024, https://research.un.org/en/docs/sc/quick.

erroneously calling the resolution "nonbinding."⁵⁰ Vetoing resolutions that the government of Israel opposes is common U.S. practice; the United States has vetoed resolutions pertaining to negative Israeli conduct over 40 times.⁵¹

Self-Defense

U.S. officials have repeatedly characterized Israel's military actions as solely defensively oriented without referring to Israel's expansionist territorial goals. Self-defense implies that nearly anything can be done in the name of defending oneself; it leaves more room for maneuver. After all, one is just trying to hold onto what one already legitimately possesses.

On October 7, 2023, Biden said, "Israel has the right to defend itself and its people. Full stop." On October 10, 2023, Biden stated, "we will make sure Israel has what it needs to take care of its citizens, defend itself." On October 25, 2023, Biden spoke to Netanyahu in a phone call: "The President reiterated that Israel has every right and responsibility to defend its citizens from terrorism and to do so in a manner consistent with international humanitarian law." The self-defense message continued throughout the year, such as on May 31, 2024, when Biden offered a ceasefire proposal: "Israel will

⁵⁰ United Nations, "The situation in the Middle East, including the Palestinian question," U.N. Security Council, S/PV.9586, March 25, 2024, 5,

https://documents.un.org/doc/undoc/pro/n24/079/16/pdf/n2407916.pdf.

⁵¹ Jonathan Graubart and Arturo Jimenez-Bacardi, "David in Goliath's citadel: Mobilizing the Security Council's normative power for Palestine," *European Journal of International Relations* 22 (2016): 24-48.

⁵² Government of the United States, "Remarks by President Biden on the Terrorist Attacks In Israel," The White House, October 07, 2023,

https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/07/remarks-by-president-biden-on-the-terrorist-attacks-in-israel/.

⁵³ Government of the United States, "Remarks by President Biden on the Terrorist Attacks in Israel," The White House, October 10, 2023,

https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/10/remarks-by-president-biden-on-the-terrorist-attacks-in-israel-2/.

⁵⁴ Government of the United States, "Readout of President Biden's Call with Prime Minister Netanyahu of Israel," The White House, October 25, 2023,

https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/25/readout-of-president-bidens-call-with-prime-minister-netanyahu-of-israel-6/.

always have the right to defend itself against the threats to its security ... and the United States will always ensure that Israel has what it needs to defend itself." ⁵⁵

With the secretary of state and Department of State spokespeople repeatedly using similar language, they reinforce the notion that the only driver for Israel's military choices is defensive action, ignoring the evidence that expansion also figures into Israeli policymaking.

Humanitarian failure

Gaza today is a complete humanitarian disaster. Israel's military campaign has led to immense destruction and human suffering for the Palestinian inhabitants. This destruction aligns with what Israeli military officials said early in the war. Broadly, IDF Spokesperson Daniel Hagari said on October 9, 2023, that "right now we're focused on what causes maximum damage." That is consistent with what the chief of staff of the Israeli Air Force said, also in the early days of the war: "entire neighborhoods were attacked on a large scale and not in a surgical manner." Starvation, malnutrition, and infectious diseases are widespread.

Israel attacked all 36 hospitals in Gaza.⁵⁸ By January 2024, 59 percent of hospitals' bed capacity "had been lost."⁵⁹ Euro-Med Monitor reported that the Israeli military had killed

⁵⁵ Government of the United States, "Remarks by President Biden on the Middle East," The White House, May 31, 2024,

 $[\]frac{https://www.whitehouse.gov/briefing-room/speeches-remarks/2024/05/31/remarks-by-president-biden-on-the-middle-east-2/.}{}$

⁵⁶ Bethan McKernan and Quique Kierszenbaum, "We're focused on maximum damage': ground offensive into Gaza seems imminent," *The Guardian*, October 10, 2023, updated December 05, 2023, https://www.theguardian.com/world/2023/oct/10/right-now-it-is-one-day-at-a-time-life-on-israels-frontline-with-gaza.

⁵⁷ Yuval Abraham, "A mass assassination factory': Inside Israel's calculated bombing of Gaza," 972 *Magazine*, November 30, 2023,

https://www.972mag.com/mass-assassination-factory-israel-calculated-bombing-gaza/.

For more details, see Nicola Perugini and Neve Gordon, "Medicide' in Gaza and International Law: Time for Banning the Bombing of Hospitals," Institute for Palestine Studies, 2024, https://palestine-studies.org/en/node/1656099.

⁵⁹ World Health Organization, *Health conditions in the occupied Palestinian territory, including east Jerusalem: Report by the Director-General,* (Geneva: WHO, 2024), https://apps.who.int/gb/ebwha/pdf_files/EB154/B154_51-en.pdf.

2,100 Palestinian children under the age of two.⁶⁰ In December 2023, UNICEF concluded: "The Gaza Strip is the most dangerous place in the world to be a child."⁶¹ In November 2023, U.N. Secretary-General Antonio Guterres said, "We are witnessing a killing of civilians that is unparalleled and unprecedented in any conflict since I have been secretary-general."⁶² Israel justified its actions by pointing to Hamas operating in and around facilities in urban areas.

The U.S. government did not attempt to stop Israel by withholding bombs or other military material. As noted already, it did not enforce the provision of the U.S. Foreign Assistance Act that bars arms for armed forces that disrupt the delivery of U.S.-supplied humanitarian assistance.

What has the U.S. government done? Biden asked Israel to defend its citizens "in a manner consistent with international humanitarian law." The United States tried and failed to build a working pier to circumvent Israeli blockage of aid delivery for Gaza. It cut U.S. funding to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UNRWA, a main provider of aid to destitute Palestinians in Gaza, on the basis of limited Israeli allegations of UNRWA complicity in the October 7, 2023 Hamas attack. Meanwhile, all other countries that initially froze aid to UNRWA due to Israeli claims later restored that aid. 64

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⁶⁰ "The bloodiest face of its genocide: Israel has killed 2,100 Palestinian infants and toddlers in Gaza," Euro-Med Human Rights Monitor, August 14, 2024, https://euromedmonitor.org/a/6437.

⁶¹ "UNICEF Geneva Palais briefing note – Gaza: The world's most dangerous place to be a child," UNICEF, December 19, 2023,

 $[\]frac{https://www.unicef.org/press-releases/unicef-geneva-palais-briefing-note-gaza-worlds-most-dangerous-place-be-child.}{}$

UN News (@UN_News_Centre), "We are witnessing a killing of civilians that is unparalleled," X (formerly known as Twitter), November 20, 2023, https://x.com/UN_News_Centre/status/1726609880986083685.
 Government of the United States, "Readout of President Biden's Call with Prime Minister Netanyahu of Israel," The White House, October 25, 2023,

https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/25/readout-of-president-bidens-call-with-prime-minister-netanyahu-of-israel-6/.

⁶⁴ "Gaza: U.S., U.K. Outliers in Holding Back UNRWA Funding," Human Rights Watch, July 18, 2024, https://www.hrw.org/news/2024/07/18/gaza-us-uk-outliers-holding-back-unrwa-funding.

Direct U.S. Military Involvement

The United States has generally used its aircraft carriers to deter Iranian involvement in the war, but there have also been specific engagements involving U.S. forces. For example, in April 2024, the United States and its allies "shot down the majority of Iranian drones and cruise missiles" targeting Israel. This included using U.S. fighter squadrons deployed in the Middle East, U.S. naval vessels, and a Patriot surface-to-air missile battery in Iraq.⁶⁵ In early October 2024, two U.S. Navy destroyers fired interceptors at Iranian missiles headed for Israel.

Pro-Iranian militias have frequently targeted the United States, and a drone killed three U.S. military personnel at a U.S. military outpost in northeast Jordan on January 28, 2024. The United States has battled Houthi rebels in Yemen who have been targeting ships and Israel itself.⁶⁶

Looking across U.S. policy as a whole, one sees that Washington was unable or unwilling to advance its preferred policies with the government of Israel. In the next section, we will conclude with the impact of the past year on the stated goals of the Biden administration.

Conclusion

Although Biden administration officials still refer to a two-state solution, there are no indications a two-state solution is likely. The Biden administration was not actively pursuing a negotiated two-state solution before the start of this war, and nothing has made a two-state outcome more likely since then. Throughout the war, the U.S.

⁶⁵ Ken Klippenstein and Daniel Boguslaw, "U.S., Not Israel, Shot Down Most Iran Drones and Missiles, *The Intercept*, April 15, 2024, https://theintercept.com/2024/04/15/iran-attack-israel-drones-missiles/; and Jim Garamone, "U.S. Will Send More Defensive Military Capabilities to Middle East," U.S. Department of Defense, *DOD News*, August 02, 2024,

https://www.defense.gov/News/News-Stories/Article/Article/3860462/us-will-send-more-defensive-military-capabilities-to-middle-east/.

⁶⁶ Sebastian Usher and Max Matza, "U.S. warships and planes strike Houthi targets in Yemen," BBC, October 04, 2024, https://www.bbc.com/news/articles/cx2ld3wxeyqo.

government has provided diplomatic and military support to an Israeli government wholly bent on growing settlements in the West Bank and permanently suppressing Palestinian nationalism. Given that the Biden administration was unable or unwilling to convince Israel to publicly accept a ceasefire plan based on Israel's own proposal, it is unlikely the United States could achieve a much more fundamental agreement that would involve influencing the Israeli government to accept territorial compromise, share Jerusalem, and recognize the state of Palestine. Similarly, a more limited enclave or autonomy idea that Israel might be willing to accept would be unlikely to satisfy Palestinian nationalist demands.

At the same time, the Gaza war has directly drawn U.S. forces into the fighting in the region versus Iran and Yemen's Houthis. The Biden administration has not shifted away from a military-centric approach to the Middle East. It has again relied on U.S. military instruments. Should the regional war further escalate, U.S. military involvement might become more extensive.

Is the United States failing to deploy the leverage it possesses, or is it purposely not using that leverage because U.S. officials want Israeli expansion to succeed? Maybe the administration is unwilling for domestic political reasons to use that leverage. Or maybe the United States welcomes Israel taking on Iran and its allies. It is hard to tell, but the outcome is the same. Israel sets the policy pathway, operating with little accountability, and the United States looks weak or incompetent in the face of Israeli defiance. The Biden administration's stated goals regarding two states and a smaller regional military footprint are no closer to realization.

The recommendation that follows from this brief is clear: The U.S. government should make significant aid and arms deliveries to Israel contingent on Israel accepting a full ceasefire on all fronts and agreeing not to establish Israeli settlements in Gaza. If it desired to do so, the U.S. government could still shift course and demand Israel be more

⁶⁷ Aaron David Miller, "Words Over Deeds: Why Biden Isn't Pressuring Israel," *The New York Times*, March 14, 2024, https://www.nytimes.com/2024/03/14/opinion/biden-israel-gaza-policy.html.

accommodating of U.S. preferences and interests. U.S. leverage could advance the stated goals of the Biden administration and address the ongoing humanitarian tragedy. At the same time, the United States would need to work closely with Egypt, Qatar, and, through backchannels like Iran, to press Hamas to agree as well.

A ceasefire would halt the massive loss of life in Lebanon and especially Gaza. It should include a hostage exchange, humanitarian aid, and the return of Palestinians, Israelis, and Lebanese to their hometowns. Also, it would allow Washington to downshift its current military efforts in the region. It would, for the first time in over a year, herald deescalation rather than escalation. Lastly, it might open the door to concrete discussions about what's next in terms of rebuilding, deescalation, and a political future for two peoples destined to live in the same lands.

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