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Under Primacy, Weapons Sales Will Always Supersede Human Rights

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Executive Summary

The U.S. government's expressed commitment to human rights is routinely undermined by its actual commitment to maintaining America's global military primacy.

Since the 1970s, Washington has cast itself as a defender of global human rights, when Congress passed laws to bar the U.S. from providing security assistance to human rights violators.

Yet America's interest in human rights has long been sublimated to the logic of hegemony, from Cold War containment to the Global War on Terror and beyond. Congress has still never successfully voted to block a weapons sale. Today, the myth that American power upholds human rights lies buried beneath the rubble of Gaza.

This research brief traces the emergence of human rights within U.S. foreign policymaking in the waning decades of the Cold War — alongside Washington's rise to the top of the global arms trade — and surveys the various U.S. government efforts to codify human rights considerations in the practice of U.S. foreign policy, particularly arms sales, through the Biden administration. This history reveals how American leaders, regardless of political party, have consistently instrumentalized human rights concerns to target perceived adversaries, while tossing aside such concerns when they apply to U.S. partners.

After Israel invaded Gaza following the Hamas attacks on October 7, 2023, the Biden administration failed to place any meaningful conditions on weapons sales to Israel, despite Israel's conduct showing clear violations of international and U.S. law. The Trump administration has since expanded America's unconditional support for Israel.

Even as the world becomes increasingly multipolar, the defense establishment remains intent on maintaining U.S. military primacy. In clinging to this pursuit, human rights will remain an afterthought, selectively invoked by U.S. leaders when they do not threaten

the military-industrial complex and arms sales. Only a sober recalibration of America's approach to our new geopolitical reality — including a foreign policy of military restraint — can bring about a deeper commitment to human rights in Washington.

Introduction

The decision by the U.S. government to directly enable Israel's genocide of Palestinians in Gaza has severely damaged American credibility as an advocate for human rights, especially in the Global South.¹ Yet the decision by both a Democratic and a Republican administration to provide unconditional support to Israel, despite its violation of international and American laws designed to prevent such atrocities, should not be surprising. The U.S. government is unlikely to uphold its expressed values regarding human rights as long as maintaining military primacy remains the overarching objective of U.S. foreign policy.²

The pursuit of military primacy has driven U.S. foreign policy since World War II.³ Sustaining global primacy requires a military-industrial complex, whereby the government funds a defense industrial base dedicated to the production of state-of-the-art weaponry. To help support a robust defense industry, the U.S. exports weapons. Sales of American weaponry are also crucial to maintaining U.S. primacy, in that they allow for interoperability while strengthening relationships. Moreover, primacy cannot be upheld unless the U.S. has the most advanced military technology and

¹ There is a growing consensus among major humanitarian and human rights institutions that Israel's actions in Gaza constitute genocide or genocidal acts, including by Amnesty International, Human Rights Watch, Médecins Sans Frontières, and a U.N. Special Committee. In addition, the International Court of Justice concluded in January 2024 that it was "plausible" that Israel was committing the crime of genocide. See, e.g. "Israel/Occupied Palestinian Territory: 'You Feel Like You Are Subhuman': Israel's Genocide Against Palestinians in Gaza," Amnesty International, December 5, 2024, <https://www.amnesty.org/en/documents/mde15/8668/2024/en/>; "Israel's Crime of Extermination, Acts of Genocide in Gaza," Human Rights Watch, December 10, 2024, <https://www.hrw.org/news/2024/12/19/israels-crime-extermination-acts-genocide-gaza>; "Gaza Death Trap: MSF Report Exposes Israel's Campaign of Total Destruction," Médecins Sans Frontières, December 19, 2024, <https://www.msf.org/msf-report-exposes-israel%E2%80%99s-campaign-total-destruction>; United Nations, "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories," A/79/363, General Assembly, 79th sess., Agenda item 50., September 20, 2024, <https://documents.un.org/doc/undoc/gen/n24/271/19/pdf/n2427119.pdf>.

² In the case of Israel, considerations of primacy are supplemented by historical ties and the power of the Israel lobby, to the point that sales to Israel continue even when their relationship to extending U.S. power is not clear, or when arming Israel actually harms long-term U.S. interests.

³ Stephen Wertheim, *Tomorrow, the World: The Birth of U.S. Global Supremacy* (Cambridge: Belknap Press of Harvard University Press, 2020).

armaments. The profit motive of the defense industry aligns with the foreign policy imperative to maintain primacy, both of which are politically safeguarded by the powerful defense lobby.⁴

The interest of the defense industrial base in manufacturing and exporting weapons often clashes with the expressed U.S. priority of protecting human rights. Yet the two are linked in American law, which states that the provision of weapons should be directly tied to a country's human rights record. According to U.S. law 502B: 22 USC 2304: (a)(1), "[A] principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries."⁵ This law stipulates that the United States will not provide security assistance to any country whose government engages in a "consistent pattern of gross violations of internationally recognized human rights." Yet this law, Section 502B of the Foreign Assistance Act, which Congress passed in 1976, has never been applied. Likewise, Congress has never successfully blocked a weapons sale through the Joint Resolution of Disapproval process laid out in the Arms Export Control Act (22 USC 2751 et seq.).⁶ The imperative toward primacy, combined with the political power of some of America's key partners and the defense industry, consistently overrides American law.

This dynamic is growing more pronounced in the context of great power competition: Anxieties about the expansion of Chinese, Russian, or other competitors' influence incentivize even greater willingness to overlook human rights abuses by partner governments. To be clear, America's provision of weapons for Israel's assault on Gaza was not the result of rivalrous great powers. Instead, the decision reflected the influence of the pro-Israel lobby, which long ago transformed support for Israel into a domestic issue rather than merely an aspect of America's foreign policy. The pro-Israel lobby and the defense lobby share an interest in the U.S. maintaining military hegemony in the Middle East. I observed this directly while working at the U.S. State Department's Bureau

⁴ "Federal Lobbying: Ranked Sectors," OpenSecrets, accessed March 21, 2025, <https://www.opensecrets.org/federal-lobbying/ranked-sectors>.

⁵ 22 U.S. Code § 2304 - Human Rights and Security Assistance, <https://www.law.cornell.edu/uscode/text/22/2304>.

⁶ 22 U.S.C. § 2751, <https://www.govinfo.gov/app/details/USCODE-2023-title22/USCODE-2023-title22-chap39-subchapl-sec2751>.

of Human Rights, Democracy, and Labor's Office of Near Eastern Affairs (DRL/NEA) from March 2023 until I resigned in March 2024 over the Biden administration's unconditional support for Israel's military operations in Gaza, which violated U.S. law.

Although Israel's destruction of Gaza represents the most egregious example, the American government has almost never applied laws intended to punish human rights abusers in Israel. And while Israel receives special treatment given its unique status within America's political landscape, many other U.S. partners are also allowed to violate human rights with impunity. Instead, the U.S. primarily highlights human rights abuses by adversarial governments. As a result, human rights concerns tend to factor only into policies designed to counter perceived U.S. enemies. With a few exceptions, the U.S. government does not sell weapons to hostile powers, so criticizing these governments does not endanger weapons sales. Because the U.S. is reluctant to withhold weapons sales, policymakers instead mostly rely on sanctions to punish human rights abuses. Withholding U.S. weapons could more effectively compel countries to respect human rights, but the priorities of the military-industrial complex and sustaining primacy take precedence.

It is important to note that both the Democratic and Republican parties prioritize primacy and the military-industrial complex over the protection of human rights. To the extent that a partisan divide exists, it is primarily rhetorical. Democratic administrations usually talk more about human rights than Republican administrations, and are more willing to provide funding for human rights initiatives, but neither party has upheld America's legally binding commitment to not sell weapons to governments that engage in gross violations of human rights.

For instance, the Trump administration's decision to cut off almost all foreign assistance and its stated intention to slash the offices and personnel focused on human rights are portrayed as a seismic shift in America's approach to the world.⁷ In

⁷ Nahal Toosi, "Trump Wants to Shrink the State Department's Size, Reach and Focus," *Politico*, February 27, 2025, <https://www.politico.com/news/2025/02/27/trump-state-department-cuts-00206494>; Nahal Toosi, "Trump Drastically Cutting Back Human Rights Report," *Politico*, March 19, 2025, <https://www.politico.com/news/2025/03/19/trump-human-rights-report-00238581>.

reality, President Trump nakedly pursues what he sees as U.S. self-interest, while previous presidents largely preferred to cloak similar decisions in the language of morality and mutual benefit. By defunding initiatives intended to bolster American soft power, from international development to democracy promotion, President Trump has indeed altered America's global role. Yet military primacy has guided decision-making since the U.S. emerged as a superpower after World War II, and, in this, President Trump does not appear to be inclined to alter the core driver of U.S. foreign policy. Interestingly, although he has slashed the institutions dedicated to human rights advocacy, his administration still uses the language of human rights to castigate opponents.⁸

By prioritizing the short-term profits of the defense industry over human rights considerations, the U.S. risks long-term consequences, including fueling conflict, stoking arms races, and drawing the U.S. into unnecessary wars.⁹ Furthermore, by partnering with governments that consistently violate their citizens' rights, the U.S. is more likely to suffer blowback, including attacks on U.S. targets, whether foreign or domestic. After September 11, 2001, the U.S. spent two decades and billions of dollars combating terrorism, yet ongoing U.S. relationships with abusive governments have continued to drive recruitment by terrorists and other groups that use violence in response to the violence meted out by their governments.¹⁰ Ignoring human rights abuses carries significant consequences for U.S. security, beyond the more obvious moral and legal concerns.

U.S. law links human rights to weapons sales

Since the mid-1970s, U.S. law has stipulated that America not sell weapons to governments that engage in gross violations of human rights, and yet that law has never

⁸ Marco Rubio, "Secretary of State Marco Rubio with Alicia Ortega of SIN News," interview by Alicia Ortega, U.S. Department of State, February 6, 2025, <https://www.state.gov/secretary-of-state-marco-rubio-with-alicia-ortega-of-sin-news>.

⁹ William D. Hartung, "Promoting Stability or Fueling Conflict? The Impact of U.S. Arms Sales on National and Global Security," Quincy Institute for Responsible Statecraft, October 20, 2022, <https://quincyinst.org/research/promoting-stability-or-fueling-conflict-the-impact-of-u-s-arms-sales-on-national-and-global-security/#the-us-role-in-the-global-arms-trade>.

¹⁰ Office of the United Nations High Commissioner for Human Rights, "Human Rights, Terrorism and Counter-terrorism Fact Sheet No. 32," <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet32EN.pdf>.

been applied. Instead, until President Trump's second term, the U.S. provided funding and programs dedicated to advocating for human rights, to the extent that such advocacy did not threaten an existing bilateral relationship or weapons sales. The history of how human rights came to be linked with weapons sales in U.S. law, while remaining marginal to broader foreign policy goals, offers insights into the fundamental contradiction between America's human rights advocacy and the maintenance of military primacy through weapons sales.

The concept of human rights gained prominence when the United Nations unanimously adopted the Universal Declaration of Human Rights in December 1948. The U.N. sought to codify a universal set of rights in response to the unprecedented violence of World War II, a motivation that also led to the expansion of the Geneva Convention to include noncombatant civilians in 1949. However, human rights began to gain more significant traction only in the 1970s.¹¹

The Cold War created an abundance of contradictions between America's behavior and self-image. The U.S. government's determination to minimize the influence of the USSR by preventing the spread of communism frequently involved sending weapons and other support to anti-communist governments, regardless of how poorly they treated their own citizens. America's failures and atrocities during the Vietnam War in particular contributed to a "liberal shift in foreign policy in new, moralized terms."¹² Activists started to rely more heavily on the idea of human rights, especially to protest U.S. support for governments that brutalized their own populations.¹³ For example, the Nixon administration's fears about communism in the Western Hemisphere contributed to the U.S. role in the 1973 ouster and murder of socialist president Salvador Allende of Chile. The revelation of U.S. involvement in both the bloody coup and the installation of the

¹¹ "No one in the global disruption of 1968 thought of the better world they demanded as a world to be governed by 'human rights.' The drama of human rights, then, is that they emerged in the 1970s seemingly from nowhere. ... At the time, there were next to no nongovernmental organizations that pursued human rights; Amnesty International, a fledgling group, remained practically unknown." Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Harvard University Press, 2010), 3.

¹² Moyn, *The Last Utopia*, 8.

¹³ In one of the earliest instances of Congress withholding U.S. security assistance on the basis of human rights concerns, the U.S. withheld weapons from Turkey after the Turkish invasion of northern Cyprus in 1974. See Clayton Thomas and Jim Zanotti, "Turkey (Türkiye)-U.S. Relations: Timeline and Brief Historical Context," Congressional Research Service, September 13, 2024, <https://www.congress.gov/crs-product/IF10487>.

brutal military dictatorship of Augusto Pinochet sparked public outcry. In response, Congress implemented laws to try to overcome the Secretary of State Henry Kissinger–led State Department’s resistance to incorporating human rights concerns into U.S. foreign policy.¹⁴

Congress held hearings on the U.S. role in the Chilean coup, and, in 1974, amended the Foreign Assistance Act of 1961 by adding Section 502B. In 1976, Congress strengthened Section 502B to stipulate the following: “No security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.”¹⁵ “Security assistance” refers to “a group of programs, authorized under Title 22 of the U.S. Code, by which the U.S. government provides defense articles, military education and training, and other defense-related services to eligible foreign governments by grant, loan, credit, cash sales, or lease.”¹⁶ Foreign military sales, or the sale of U.S.–made weapons, and foreign military financing, or the provision of U.S. funds to a partner government to purchase U.S. weapons, are both components of security assistance.

In 1976, Congress also passed the Arms Export Control Act, which limited the justification for arms transfers to “internal security, legitimate self-defense, and to limit the proliferation of weapons of mass destruction,” as well as participating in U.N.–sanctioned multilateral actions.¹⁷ In 1977, Congress added Section 116 to the Foreign Assistance Act, which reinforced the ban on providing U.S. assistance to governments engaged in human rights abuses, expanding that to include nonmilitary

¹⁴ Amalia Bertoli, Roger Burbach, David Hathaway, Robert High, and Eugene Kelly, “Human Rights...‘In the Soul of Our Foreign Policy,’” *NACLA Report on the Americas* 13, no. 2 (March/April 1979): 5, <https://nacla.org/article/human-rights-in-soul-our-foreign-policy>.

¹⁵ The law provides the following exception: “unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979), that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses.” U.S. Congress, Foreign Assistance Act of 1961, Public Law 87–195, September 4, 1961. As amended through Public Law 118–159, enacted December 23, 2024, <https://www.govinfo.gov/content/pkg/COMPS-1071/pdf/COMPS-1071.pdf>.

¹⁶ “Security Assistance,” Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation, accessed March 21, 2025, <https://www.army.mil/dasadec>. The United States is unusual, in that the State Department supervises and directs U.S. security assistance in coordination with the Defense Department; in many other countries, this responsibility lies solely or primarily with the defense ministry.

¹⁷ Josh Paul, “Security Assistance and Arms Transfers: Human Rights Frameworks and Recommendations for Strengthening,” Institute for Middle East Understanding, November 10, 2023, https://imeu.org/uploads/files/IMEU_PAGE_FINAL.pdf.

assistance. Congress also strengthened Section 502B to require an annual U.S. government accounting of human rights conditions in countries that receive U.S. security assistance; this mandate was expanded to include all countries in 1979.¹⁸ These legal guidelines appeared to signal a new, more moral era in America's engagement with the rest of the world.

However, Section 502B has been described as the “most potent provision of U.S. law regarding human rights and security assistance, yet it has never been used.”¹⁹ The only instance of Congress invoking 502B occurred almost immediately after it was passed, in 1976, when the House requested a report on the human rights practices of Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines; the report produced by Kissinger's State Department was described by Sen. Hubert Humphrey, Democrat of Minnesota, as being “as bland as a bucket of sawdust.”²⁰ It was after this that Congress passed laws requiring the State Department to produce annual reports on human rights abuses. Yet even human rights champion Sen. Frank Church, Democrat of Idaho, never drew upon Section 502B during his tenure as chair of the Senate Foreign Relations Committee, from 1979 to 1981.²¹ The late 1970s proved to be the high water mark for Congressional efforts to require that human rights concerns influence American foreign policy.

What emerged instead was partisan rhetoric: Democratic candidates and presidents tended to talk about human rights more than Republicans did. President Carter came into office declaring human rights to be “America's birthright,” and criticized Nixon and Ford's willingness to support dictators.²² Carter emphasized human rights on the campaign trail, stating, “We and our allies ... can take the lead in establishing and promoting basic global standards of human rights.” He implicitly acknowledged the

¹⁸ Michael A. Weber, “Global Human Rights: The Department of State's Country Reports on Human Rights Practices,” Congressional Research Service, April 25, 2024, <https://crsreports.congress.gov/product/pdf/IF/IF10795>.

¹⁹ John Ramming Chappell, “The Rise and Fall of Section 502B,” *Northwestern Journal of Human Rights* 21, no. 1 (2023): 2, <https://scholarlycommons.law.northwestern.edu/njihr/vol21/iss1/1>.

²⁰ Chappell, “Rise and Fall.”

²¹ Jordan Cohen and Jonathan Ellis Allen, “Menendez Is Taking a Stand Against Saudi Arabia, but Does He Have Veto Power?” Cato Institute, October 14, 2022, <https://www.cato.org/blog/menendez-taking-stand-against-saudi-arabia-does-he-have-veto-power>.

²² “Speaking before the United Nations General Assembly on March 17, 1977, the President [Carter] asserted that the United States had a ‘historical birthright’ to be associated with human rights.” “Carter and Human Rights,” U.S. Department of State Office of the Historian, accessed March 21, 2025, <https://history.state.gov/milestones/1977-1980/human-rights>.

incompatibility between prioritizing weapons sales and protecting human rights: “I am particularly concerned by our nation’s role as the world’s leading arms salesman. ... If I become President, I will work with our allies ... and also seek to work with the Soviets, to increase the emphasis on peace and to reduce the commerce in weapons of war.”²³ His statements reflected pressure from activists to prioritize human rights. Yet Carter’s campaign promises were often broken when confronted with competing U.S. interests, in a pattern his Democratic successors would emulate.

Congress did cut off all military aid to Chile and Uruguay for the fiscal year 1977, and plans were made to prohibit military aid to Argentina and reduce aid to South Korea, Iran, Indonesia, and the Philippines due to their government’s human rights abuses.²⁴ Congress also tried to pressure the World Bank not to issue loans to countries engaged in significant violations of human rights. World Bank President Robert McNamara wrote to President Carter to say that the bank could not accept U.S. money under such conditions. As the *Washington Post* noted at the time, “Mr. McNamara didn’t say it, but these amendments would also constitute an invitation to any rich country with an ax to grind – the Arab oil states, for example, in their economic war with Israel.”²⁵ The Carter administration lobbied against the bill; although it passed, significant loopholes rendered it largely ineffective.²⁶ U.S. support for Israel outweighed America’s expressed concerns for human rights.

As a candidate, Ronald Reagan pledged to roll back the Carter administration’s emphasis on human rights, which President Reagan portrayed as responsible for the downfall of two American partners – the Shah of Iran and President Somoza of Nicaragua – under Carter’s watch. “Even as a candidate, Reagan had associated himself with Jeane Kirkpatrick ... and with her widely publicized view that Carter’s

²³ Jimmy Carter, “Address on Relations Between the World’s Democracies,” speech, Foreign Policy Association luncheon, New York, NY, June 23, 1976, <https://history.state.gov/historicaldocuments/frus1977-80v01/d6>.

²⁴ U.S. Department of State, *Foreign Relations of the United States, 1977–1980, Volume II: Human Rights and Humanitarian Affairs*, ed. Kristin L. Ahlberg, (Washington, D.C.: U.S. Government Printing Office, 2013): 10. <https://static.history.state.gov/frus/frus1977-80v02/pdf/frus1977-80v02.pdf>.

²⁵ “Botching the Aid Bill,” *Washington Post*, October 2, 1977, <https://www.washingtonpost.com/archive/politics/1977/10/03/botching-the-aid-bill/0fe3a16c-5219-4abc-b532-c2bd268e55a/>. Note: In the contemporary context, the impact of U.S. concerns about possible consequences for Israel upon overall U.S. willingness to prioritize human rights appears noteworthy.

²⁶ Bertoli, “Human Rights.”

moralist human rights policy had been detrimental to American strategic interest.”²⁷ Within months of taking office, President Reagan encouraged Congress to resume military assistance to Argentina, Chile, Guatemala, and Uruguay, whose poor human rights records had prompted the Carter administration to suspend sales, although not under the auspices of Section 502B. After revelations of the human rights abuses committed by the Contras in Nicaragua, a right-wing militia that sought to overthrow the leftist Sandinista government, Congress passed the Boland amendment to end the provision of U.S. weapons.²⁸ This prompted the Reagan administration to covertly supply arms to the Khomeini regime in Iran to generate revenue for the Contras, in what became known as the Iran–Contra affair.

Congress did pass an additional set of laws in a renewed effort to prioritize human rights.²⁹ Appalled by U.S. support for brutal anti-communist military dictatorships in Latin America in the 1980s and 1990s, Sen. Patrick Leahy, Democrat of Vermont, worked to prevent U.S. security assistance from going to specific units of a military engaged in gross violations of human rights.³⁰ The Leahy Laws were finally enacted in 1997, and have been used to prevent the acquisition of U.S. weapons by specific units in the militaries of Colombia, Indonesia, Pakistan, and Bangladesh.³¹ Notably, the Leahy Laws have not been applied to U.S. partners in the Middle East, like Israel, Egypt, or Saudi Arabia, despite documented evidence of gross violations of human rights repeatedly conducted by specific units of their militaries.³² The Leahy Laws reflect the

²⁷ Tamar Jacoby, “The Reagan Turnaround on Human Rights,” *Foreign Affairs* 64, no. 5 (1986): 1066, <https://www.foreignaffairs.com/united-states/reagan-turnaround-human-rights>.

²⁸ Michael Maccini, “The Boland Amendments and the Reagan Administration’s Policy in Nicaragua: An Inevitable Clash,” *Towson University Journal of International Affairs* (Fall 1995), <https://bpb-us-w2.wpmucdn.com/wp.towson.edu/dist/b/55/files/2019/11/Fall-1995-Article-6.pdf>.

²⁹ In 1990, the George H.W. Bush administration suspended military aid to Guatemala over human rights abuses, following the murder of an American citizen. See John M. Goshko, “Military Aid to Guatemala Suspended,” *Washington Post*, December 21, 1990, <https://www.washingtonpost.com/archive/politics/1990/12/22/military-aid-to-guatemala-suspended/52c7471d-b66c-421f-99aa-501f5380e71e/>.

³⁰ Patrick Leahy, “I Created the Leahy Law. It Should Be Applied to Israel,” *Washington Post*, March 20, 2024, <https://www.washingtonpost.com/opinions/2024/05/20/israel-leahy-human-rights-aid/>.

³¹ Lora Lumpe, “What the Leahy Law Means for Human Rights,” Open Society Foundations, April 24, 2014, <https://www.opensocietyfoundations.org/voices/what-leahy-law-means-human-rights>.

³² For human rights abuses by the Saudi military, see e.g., Amnesty International on Saudi human rights abuses: “Saudi Arabia,” Amnesty International, accessed March 11, 2025, <https://www.amnesty.org/en/location/middle-east-and-north-africa/middle-east/saudi-arabia/report-saudi-arabia/>. For human rights abuses by the Israeli military, see e.g., coverage of the Blinken State Department’s refusal to withhold funding to units of the Israeli military despite documented gross violations of human rights, in particular, the failure to withhold funding from Netzah Yehuda, a battalion created to accommodate ultra–Orthodox Jewish Israeli

reality that weapons sales are central to U.S. foreign policy and so try to at least limit the provision of American weapons to especially abusive military units, while preserving the larger bilateral military partnership.

After the collapse of the USSR, Congress increased funding for democracy promotion.³³

The September 11 attacks prompted Congress to vastly expand executive power through the Patriot Act under the administration of George W. Bush, which Congress extended under the Obama administration in 2009 and 2015 with the USA Freedom Act.

³⁴ Unlike the public reaction to Vietnam, which prompted Congress to try to rein in the imperial presidency of Nixon by passing laws on weapons sales and warmaking, since September 11, Congress has consistently failed to reassert its constitutionally mandated warmaking authority.

Congress has never successfully voted to block a weapons sale; doing so would require assembling a veto-proof majority. It has come close: In July 2019, Congress tried to block weapons sales to Saudi Arabia and the United Arab Emirates. The Trump administration had used an emergency declaration to bypass Congressional approval of the sales, which the Senate voted to block. The House passed three of the resolutions, which would have successfully prevented parts of the sale. However, President Trump vetoed the bills and a Senate vote failed to override the veto, so the sale proceeded.³⁵

The political momentum of Democrats trying to thwart President Trump's agenda, especially his support for Saudi Arabia's brutal war on Yemen and murder of Jamal Khashoggi, contributed to the Democrats' success in passing the Joint Resolution of Disapproval, although they lacked the votes to overcome the veto.³⁶

soldiers. See Brett Murphy, "Netanyahu Resists U.S. Plan to Cut Off Aid to Israeli Military Unit," *ProPublica*, April 21, 2024, <https://www.propublica.org/article/netanyahu-resists-blinken-plan-sanction-against-israeli-military-unit>. For details on the U.S. failure to apply the Leahy Laws to the Middle East more broadly, see "TIMEP Brief: Accountability in U.S. Arms Transfers," TIMEP, June 10, 2019, <https://timep.org/2019/06/10/accountability-in-arms-transfers/>.

³³ Michael A. Weber, "Democracy and Human Rights in U.S. Foreign Policy: Evolution, Tools, and Considerations for Congress," Congressional Research Service, January 7, 2025, 6, <https://www.congress.gov/crs-product/R47890>.

³⁴ Sina Beaghley, "The USA Freedom Act: The Definition of a Compromise," RAND Corporation, May 29, 2015, <https://www.rand.org/pubs/commentary/2015/05/the-usa-freedom-act-the-definition-of-a-compromise.html>.

³⁵ Paul K. Kerr, "Arms Sales: Congressional Review Process," Congressional Research Service, March 18, 2025, 7, <https://www.congress.gov/crs-product/RL31675>.

³⁶ Before 2019, President Reagan vetoed a Joint Resolution of Disapproval that sought to block the provision of weapons to Saudi Arabia in 1986 and to Japan in 1989. See Sofia Plagakis, "Fact Sheet: Joint Resolutions of Disapproval Under the Arms Export Control Act," Congressional Research Service, December 20, 2024, <https://sfp.fas.org/crs/weapons/R47094.pdf>.

In 2022, criticism of Egypt's human rights effort by Sen. Rand Paul, a Kentucky Republican, led him to try to block a sale, but only 17 other senators joined him.³⁷ Senate Foreign Relations Chair Bob Menendez opposed the measure. (Menendez resigned in 2024 after being convicted of accepting bribes on behalf of the Egyptian government.³⁸) In September 2024, the Biden administration announced that it would not withhold any aid from Egypt, despite the failure of the government of President Abdel Fattah el-Sisi to address concerns about its human rights abuses; this largely reflected the Egyptian government's willingness to comply with Israel's ongoing bombardment of the Gaza Strip in the aftermath of the October 7 attack on southern Israel.³⁹ In November 2024, Sen. Bernie Sanders, a Vermont Independent, led the first-ever vote to stop a weapons sale to Israel. A total of 19 senators voted with Sanders to halt the provision of mortar rounds, 18 voted to block tank rounds, and 17 to withhold joint direct attack munitions.⁴⁰ That Congress has never successfully prevented a weapons sale demonstrates the scale of the political obstacles arrayed against one of the only means of reorienting U.S. policy away from the provision of American-made weaponry.

In summary, although several U.S. laws restrict the provision of U.S. security assistance in response to a consistent pattern of gross violations of human rights, the Department of State, at the direction of successive presidents, has successfully avoided implementing these laws.

This is made possible because U.S. foreign assistance laws frequently include waiver provisions that allow the president to override statutory restrictions if doing so serves broadly defined interests such as "national interest" or "national security." The executive can, therefore, continue security assistance even when a recipient government engages

³⁷ Connor O'Brien, "Senate Rejects Bid to Block \$2B Sale of Military Planes to Egypt," *Politico*, March 10, 2022, <https://www.politico.com/news/2022/03/10/senate-egypt-arms-sale-human-rights-00016327>.

³⁸ Mike Catalini and Mary Clare Jalonick, "U.S. Sen. Bob Menendez of New Jersey Is Resigning from Office Following His Corruption Conviction," Associated Press, July 23, 2024, <https://apnews.com/article/senator-bob-menendez-new-jersey-resigns-a4fa9bc8fe623c9bac97c10c91fb9f07>.

³⁹ Elizabeth Hagedorn, "In First Under Biden, Egypt to Receive Full Military Aid Tied to Human Rights," *Al-Monitor*, September 11, 2024, <https://www.al-monitor.com/originals/2024/09/first-under-biden-egypt-receive-full-military-aid-tied-human-rights>.

⁴⁰ Sharon Zhang, "Senate Overwhelmingly Rejects Sanders Resolutions to Block Arms Sales to Israel," *Truthout*, November 21, 2024, <https://truthout.org/articles/senate-overwhelmingly-rejects-sanders-resolutions-to-block-arms-sales-to-israel/>.

in gross human rights violations. These waivers function as legal exceptions that reduce the practical force of the laws. Courts have shown deference to executive discretion in foreign affairs, and Congress has not created meaningful oversight over the use of waivers.⁴¹ As a result, while the laws appear to constrain arms sales, the president is permitted to ignore them without legal consequence, explaining in part why the U.S. rarely conditions weapons transfers on human rights compliance.

On the international front, the United States has refused to ratify six of the U.N.'s nine core human rights treaties. For example, the U.S. signed but refused to ratify the Convention on the Elimination of all Forms of Discrimination Against Women — a distinction shared with Iran and Somalia — as well as the Convention on the Rights of the Child, which only Somalia has likewise scorned.⁴² The Arms Trade Treaty, adopted by the U.N. General Assembly in 2013, establishes minimum standards for global arms sales, such as requiring states to assess whether a proposed transfer could facilitate serious violations of international humanitarian or human rights law. While the United States signed the treaty in 2013, the Senate did not ratify it. In 2019, the Trump administration withdrew the U.S. signature completely, a decision that the Biden administration did not reverse. Opponents argue that ratification of such treaties would infringe on American sovereignty.

Instead, U.S. foreign policy has primarily pursued military primacy since World War II, which would not be possible without the military-industrial complex. During the Cold War, Congress passed laws to expand the defense industrial base. The Defense Production Act of 1950 sought to ensure the availability of financial and material resources for defense, even during peacetime; this had profound implications for maintaining the permanent production of weapons and other armaments, thereby sustaining the military-industrial complex.⁴³ The collaboration of arms makers and the

⁴¹ John Ramming Chappell, "Why Courts Don't Enforce Arms Transfer Restrictions Under U.S. Law," *Lawfare*, September 26, 2024,

<https://www.lawfaremedia.org/article/why-courts-don-t-enforce-arms-transfer-restrictions-under-u.s.-law>.

⁴² Marie Wilken, "U.S. Aversion to International Human Rights Treaties," Global Justice Center, June 22, 2017, <https://www.globaljusticecenter.net/u-s-aversion-to-international-human-rights-treaties>.

⁴³ Luke A. Nicastro, "The U.S. Defense Industrial Base: Background and Issues for Congress," Congressional Research Service, September 23, 2024, 18, <https://www.congress.gov/crs-product/R47751>.

uniformed military to lobby for ever more spending on defense led President Eisenhower to issue his famous warning in 1961, although this did little to curb the industry's growing influence in Congress and on policymaking, as defense manufacturers strategically located weapons production plants in key Congressional districts.⁴⁴ U.S. defense spending and weapons production grew steadily, slowing only briefly after the collapse of the USSR. Although Americans were told they could finally enjoy the benefits of a "peace dividend," this was short-lived, as defense spending increased during the first quarter of the 21st century, justified by the Global War on Terror and great power competition.⁴⁵

The export of U.S. weapons not only helps the United States sustain global military primacy, it also maintains aspects of the defense industrial base that even the Pentagon itself may no longer wish to procure. Older weapons systems are sold to American partners, which, in turn, keeps those constituents employed and their representatives in office. Yet an analysis of some of the most defense-dependent counties in the country showed that about half of these counties had higher than average poverty rates.⁴⁶ In general, the defense industry rarely has to justify the tax dollars it consumes; if asked to explain the lives and resources it has wasted, "national security" generally suffices.

⁴⁴ "President Dwight D. Eisenhower's Farewell Address (1961)," National Archives, January 17, 1961, <https://www.archives.gov/milestone-documents/president-dwight-d-eisenhowers-farewell-address>; William Hartung, "The U.S. Congress Is Now in the Pocket of the Arms Industry," Fair Observer, March 30, 2023, <https://www.fairobserver.com/politics/the-us-congress-is-now-in-the-pocket-of-the-arms-industry/>.

⁴⁵ After the Cold War, reduced spending led the U.S. defense industry to consolidate into the "Big Five" defense contractors, listed in order of 2022 DoD Contract Obligations: Lockheed Martin, RTX, General Dynamics, Boeing, and Northrop Grumman. See Nicastro, "U.S. Defense Industrial Base." Spending also declined somewhat after the reduction of U.S. troops in Iraq and Afghanistan. See Amy Belasco, "The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11," Congressional Research Service, December 8, 2014, <https://sgp.fas.org/crs/natsec/RL33110.pdf>.

⁴⁶ Miriam Pemberton, "From a Militarized to a Decarbonized Economy: A Case for Conversion," Brown University Costs of War Project, January 26, 2023, <https://watson.brown.edu/costsofwar/files/cow/imce/papers/2023/Pemberton%20-%20Military%20Conversion%20Costs%20of%20War%20-Final.pdf>; Heidi Peltier, "We Get What We Pay For: The Cycle of Military Spending, Industry Power, and Economic Dependence," Brown University Costs of War Project, June 8, 2023, <https://watson.brown.edu/costsofwar/files/cow/imce/papers/2023/Peltier%202023%20-%20We%20Get%20What%20We%20Pay%20For%20-%20FINAL%20-%200608.pdf>.

The U.S. has been the world's leading arms-exporting nation since 1950.⁴⁷ Between 2019 and 2023, the U.S. accounted for 42 percent of all arms exports.⁴⁸ As a region, the Middle East has served as the most important consumer of the U.S. weapons industry since the 1970s.⁴⁹ Many of these weapons are now purchased by wealthy oil-producing states, in particular Saudi Arabia, the UAE, and Qatar.⁵⁰

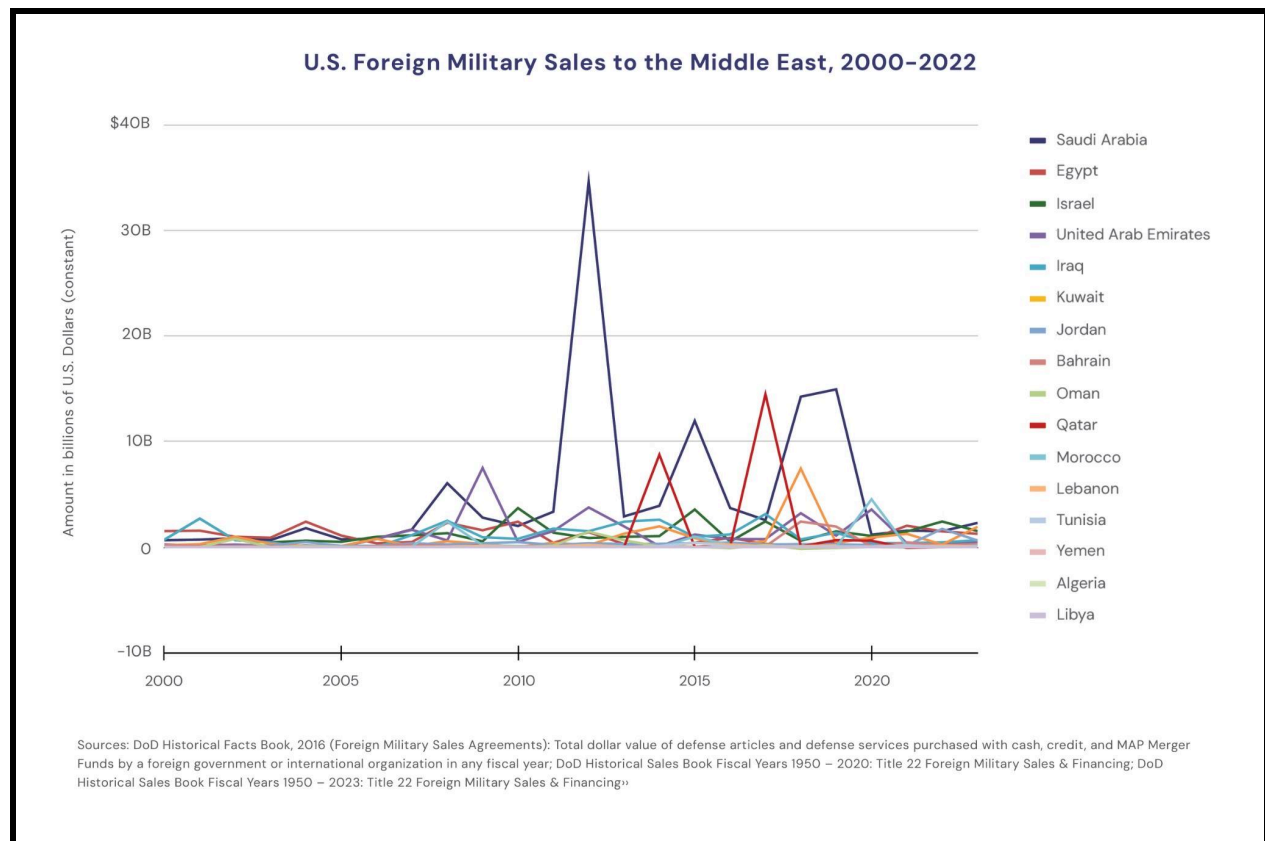


Figure 1: U.S. Foreign Military Sales to the Middle East, 2000–2022. As shown in Figure 1, U.S. foreign military

⁴⁷ "International Arms Transfers and Developments in Arms Production," *SIPRI Yearbook 2019* (Oxford: Oxford University Press, 2019), <https://www.sipri.org/yearbook/2019/05>.

⁴⁸ Pieter D. Wezeman, Katrina Djokic, Mathew George, Zain Hussain, and Siemon T. Wezeman, "Trends in International Arms Transfers, 2023," Stockholm International Peace Research Institute, March 2024, https://www.sipri.org/sites/default/files/2024-03/fs_2403_at_2023.pdf.

⁴⁹ U.S. weapons sales to the region increased tenfold from 1970 to 1980, which was part of a larger global arms buildup, when the region's imports of weapons quadrupled. "Congress Backs Jet Sales to Arabs," *CQ Almanac 1978*, 34th ed., (Washington, DC: Congressional Quarterly, 1979): 405–11, <https://library.cqpress.com/cqalmanac/document.php?id=cqal78-1238949>.

⁵⁰ "U.S. Arms Exports," Campaign Against Arms Trade, June 3, 2021, <https://caat.org.uk/data/countries/united-states/us-arms-exports/>; Christina L. Arabia, Christopher M. Blanchard, Jeremy M. Sharp, and Clayton Thomas, "Arms Sales in the Middle East: Trends and Analytical Perspectives for U.S. Policy," Congressional Research Service, November 23, 2020, <https://sgp.fas.org/crs/mideast/R44984.pdf>.

*sales to Saudi Arabia spiked under President Obama, who sought to arm U.S. partners in order to reduce American troops in the Middle East. Sales to Riyadh spiked again under Trump.*⁵¹

Whereas the wealthy Gulf states buy U.S. defense articles with their own money, the United States gives Israel \$3.3 billion a year – not including supplemental funding – much of which Israel uses to purchase American weapons.⁵² This practice began in the 1970s, when, after the 1973 war, the U.S. agreed to provide Israel with grants of military aid; Israel is allowed to earn interest on these grants, a privilege it shares only with Egypt.⁵³ With significant support from the U.S., Israel has become a top global arms exporter in its own right, although the interest-earning provision is set to phase out by 2028.⁵⁴ American support for Israel initially reflected the calculus of the Cold War, but, over time and with careful cultivation by powerful lobbies, support for Israel gained a strong domestic constituency. The bipartisan nature of Congressional support for Israel began to be challenged under President Obama, and now appears threatened by a generational shift in Americans' views about Israel.⁵⁵ Under President Biden, America's funding for Israel broke all previous records; these records will likely be broken again by President Trump. This continues despite Israel's ongoing illegal occupation of Palestine, as well as the appalling atrocities committed against civilians in Gaza and the West Bank, which increased exponentially after the Hamas attack on October 7, 2023.

⁵¹ "Trump Administration - Arms Sales to Saudi Arabia," Forum on the Arms Trade, <https://www.forumarmstrade.org/resource-page--trump-saudi-arms-sales1.html>.

⁵² "U.S. Security Cooperation with Israel," Fact Sheet, U.S. Department of State, January 20, 2025, <https://www.state.gov/u-s-security-cooperation-with-israel>.

⁵³ Yousef Munayyer, "New U.S.-Israeli Military Aid Package Reflects Shifts in Relationship," Arab Center Washington D.C., September 15, 2016, <https://arabcenterdc.org/resource/new-us-israeli-military-aid-package-reflects-shifts-in-relationship/>; Jeremy M. Sharp, "Egypt: Background and U.S. Relations," Congressional Research Service, September 12, 2024, <https://sgp.fas.org/crs/mideast/RL33003.pdf>.

⁵⁴ Yousef Munayyer, "Ending Military Aid to Israel: The Death of a Taboo?," Arab Center Washington DC, August 21, 2023, <https://arabcenterdc.org/resource/ending-military-aid-to-israel-the-death-of-a-taboo/>.

⁵⁵ Laura Silver, "Younger Americans Stand Out in Their Views of the Israel-Hamas War," Pew Research Center, April 2, 2024, <https://www.pewresearch.org/short-reads/2024/04/02/younger-americans-stand-out-in-their-views-of-the-israel-ham-as-war/>.

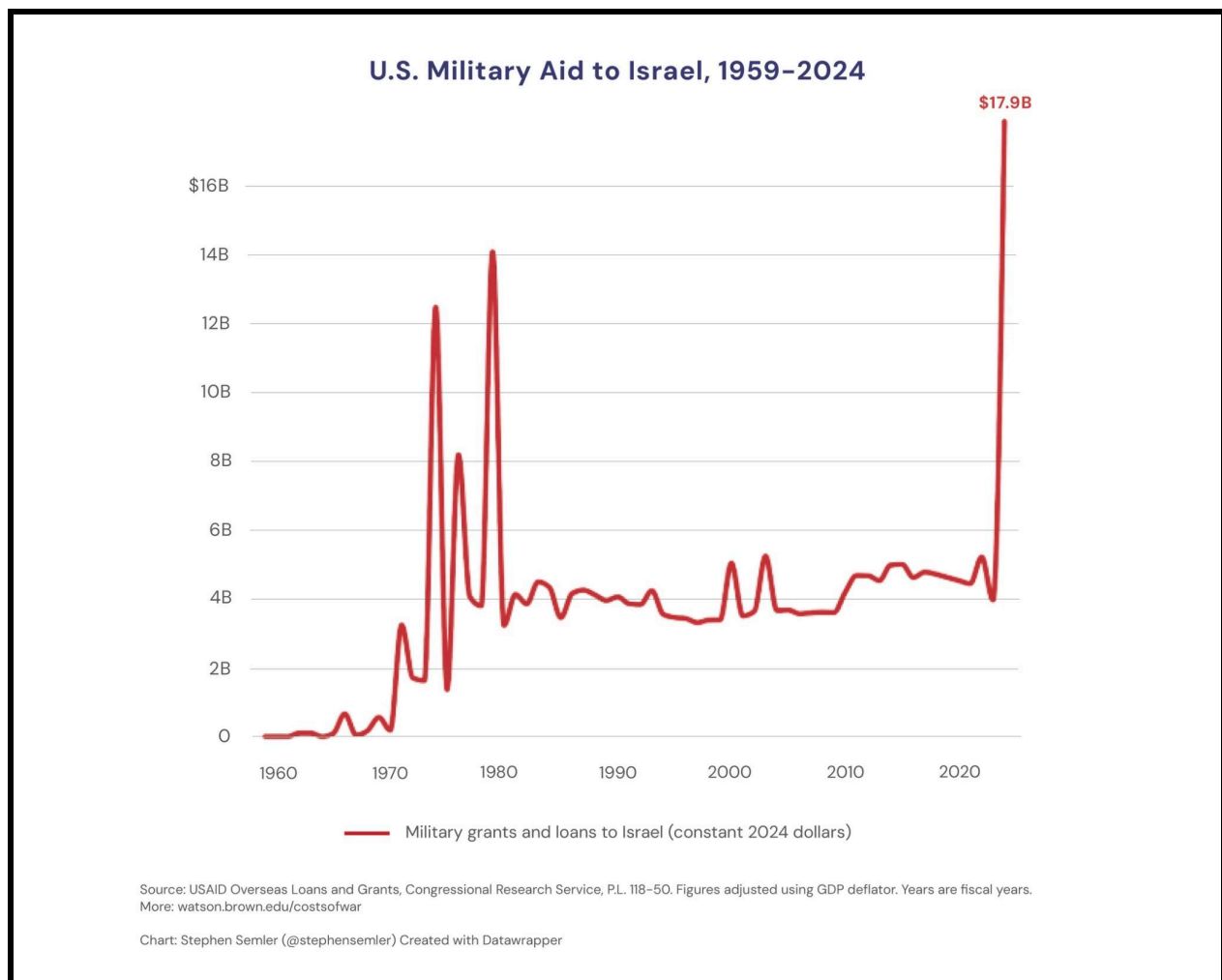


Figure 2: U.S. Military Aid to Israel, 1959-2024

Human rights policy under the Biden administration

The Biden administration pledged to put human rights at the center of its foreign policy.

⁵⁶ In a speech at the Department of State in early 2021, President Biden asserted, “We must start with diplomacy rooted in America’s most cherished democratic values: defending freedom, championing opportunity, upholding universal rights, respecting the rule of law, and treating every person with dignity.”⁵⁷ His statements reflected promises he had made on the campaign trail, where he sought to distinguish his commitment to

⁵⁶ Antony J. Blinken, “Putting Human Rights at the Center of U.S. Foreign Policy,” Press Statement, U.S. Department of State, February 24, 2021, <https://2021-2025.state.gov/putting-human-rights-at-the-center-of-u-s-foreign-policy/>.

⁵⁷ “Remarks by President Biden on America’s Place in the World,” Speeches and Remarks, U.S. White House, February 4, 2021, <https://bidenwhitehouse.archives.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/>.

American values from President Trump’s open admiration for authoritarian leaders and disregard for fundamental freedoms. In certain areas, the Blinken State Department put a particular emphasis on human rights, such as those of LGBTQI+ individuals.⁵⁸

Yet the administration’s overarching objective was clear: great power competition. The U.S. position on human rights was largely wielded to serve this objective, as demonstrated by the cynical inclusion of many nondemocracies and human rights abusers in the Biden administration’s Summit for Democracy, which launched in 2021 and convened twice more.⁵⁹ In 2022, the United States sold weapons to 57 percent of autocracies worldwide.⁶⁰

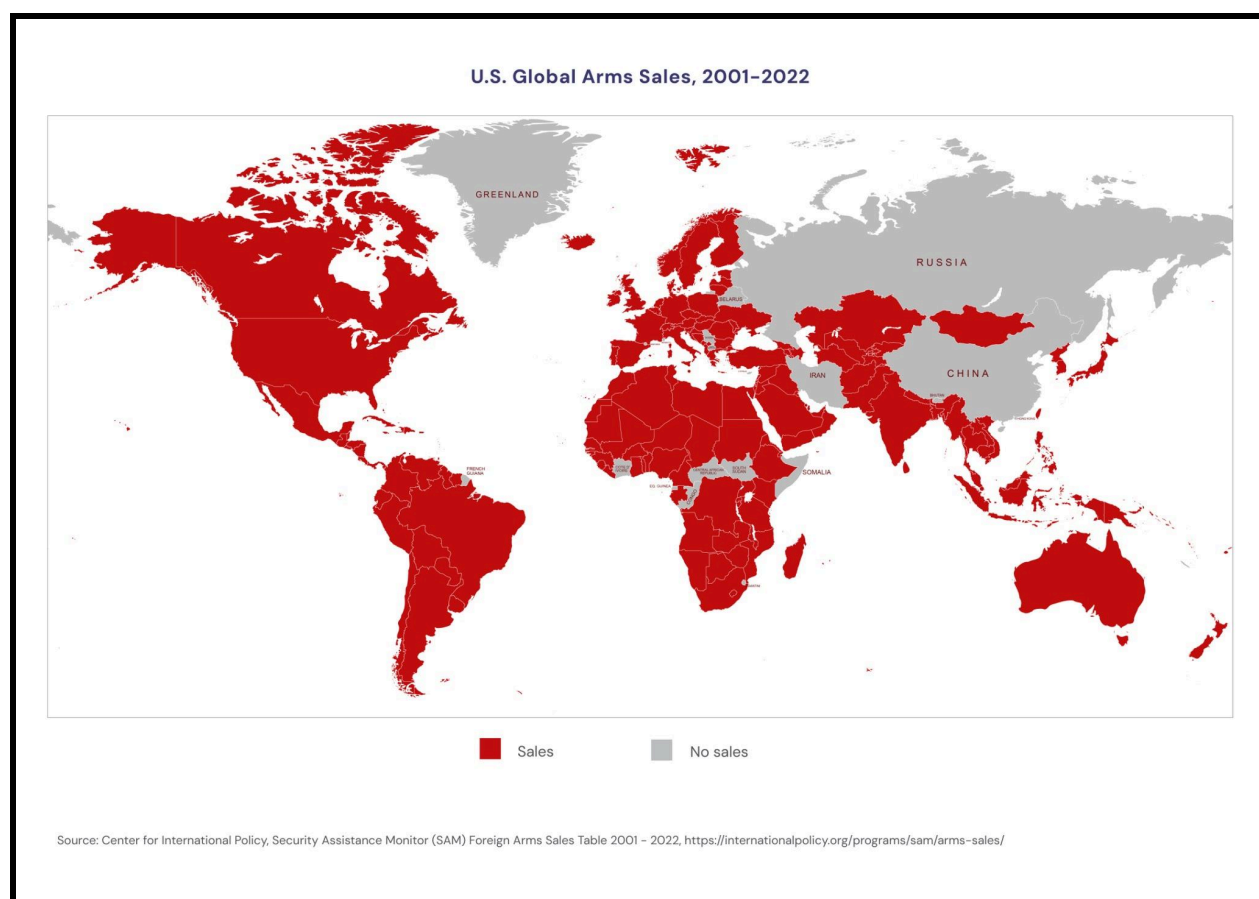


Figure 3: U.S. Global Arms Sales, 2001-2022

⁵⁸ “Advancing the Human Rights of LGBTQI+ Persons Around the World,” U.S. Department of State, accessed March 21, 2025, <https://2021-2025.state.gov/lgbtqi-human-rights/>.

⁵⁹ “The Summit for Democracy,” U.S. Department of State, accessed March 21, 2025, <https://2021-2025.state.gov/bureau-of-democracy-human-rights-and-labor/the-summit-for-democracy>.

⁶⁰ Stephen Semler, “Biden Is Selling Weapons to the Majority of the World’s Autocracies,” *The Intercept*, May 11, 2023, <https://theintercept.com/2023/05/11/united-states-foreign-weapons-sales/>.

Russia's invasion of Ukraine offered a unique opportunity for the U.S. to simultaneously weaken a great power competitor, sell and provide U.S. weapons, and trumpet American support for human rights and international law. Human rights groups noted the unprecedented level of attention paid to Russia's human rights violations in Ukraine, including those gathered by American intelligence services.⁶¹ In the administration's own fact sheet on its global human rights advocacy, the Biden White House touted their record on protecting the human rights of Ukrainians; the report did not mention Israel, Palestine, or Gaza.⁶²

The administration did revamp the Conventional Arms Transfer, CAT, Policy by highlighting the importance of protecting civilians as a means of distinguishing the U.S. from other possible weapons providers. The policy noted: "The legitimacy of and public support for arms transfers among the populations of both the United States and recipient nations depends on the protection of civilians from harm, and the United States distinguishes itself from other potential sources of arms transfers by elevating the importance of protecting civilians."⁶³ The new policy imposed a stricter standard to determine whether U.S. weapons might be used to commit atrocities.⁶⁴ However, the stricter CAT Policy had no impact on the Biden administration's determination to provide overwhelming material and financial support to Israel's military operations in Gaza.⁶⁵

Other Biden-era reports maintained a strong pro-Israel bias. In the State Department's 2024 annual report to Congress on the Elie Wiesel Genocide and Atrocities Prevention Act, the administration primarily highlighted atrocities committed by Russia, China, and a handful of countries in Africa and Asia. The report struck a different tone on Israel and

⁶¹ Sarah Yager, "Spying for Human Rights," Human Rights Watch, May 31, 2023, <https://www.hrw.org/news/2023/05/31/spying-human-rights>.

⁶² "Fact Sheet: For Human Rights Day, Highlighting the Biden-Harris Administration Global Human Rights Accomplishments," The White House, December 11, 2024, <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2024/12/11/fact-sheet-for-human-rights-day-highlighting-the-biden-harris-administration-global-human-rights-accomplishments/>.

⁶³ Josh Paul, "Security Assistance and Arms Transfers: Human Rights Frameworks and Recommendations for Strengthening," Institute for Middle East Understanding, November 10, 2023, https://imeu.org/uploads/files/IMEU_PAGE_FINAL.pdf.

⁶⁴ John Ramming Chappel and Ari Tolany, "Unpacking Biden's Conventional Arms Transfer Policy," *Lawfare*, March 1, 2023, <https://www.lawfaremedia.org/article/unpacking-bidens-conventional-arms-transfer-policy>.

⁶⁵ "Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*)," Provisional Measures, Order, ICJ Reports 2024 (January 26), <https://www.icj-cij.org/node/203447>.

Palestine, beginning with a condemnation of Hamas and then asserting Israel's "inherent right to defend itself" and stressing that Israel's actions in Gaza were conducted for self-defense purposes.⁶⁶ The report, along with the Biden administration's frequent repetition of Israel's "right to self-defense," ignores that Article 51 of the U.N. Charter was originally intended to regulate state-to-state conflict. Its invocation as a means to allow military actions against a nonstate actor operating within an occupied territory, such as Hamas in Gaza, is widely contested and, according to most international law experts, incompatible with the Charter's framework.⁶⁷

Israel was already a blind spot for the Biden administration. The president and his team wished to build upon the Abraham Accords and achieve Israeli–Saudi normalization, which they saw as contributing to their broader agenda of cementing U.S.–Saudi relations and fending off Chinese influence while also bolstering the regional military partnership against Iran. The election of the most extreme right-wing government in Israel's history did little to dissuade the administration, even as their expansionist objectives and human rights violations became harder to ignore. The year 2023 was already the deadliest for Palestinians since the Second Intifada, with 254 Palestinians killed in the West Bank before October 7.⁶⁸ While enabling Israel's 16-month-long intensified blockade and bombardment of Gaza, the Biden administration appeared incapable of comprehending the scale of its own hypocrisy, especially when compared to its stance on Ukraine, another territory subject to illegal invasion and occupation.⁶⁹

Within the State Department, concern grew. Even career members of the foreign and civil services, accustomed to the willingness of previous administrations to rely on the creativity of government attorneys to provide a passable legal veneer, found the flagrant disregard difficult to reconcile with oaths taken to uphold the Constitution. Many

⁶⁶ "2024 Report to Congress on Section 5 of the Elie Wiesel Genocide and Atrocities Prevention Act of 2018 (P.L. 115-441) [as amended]," U.S. Department of State, July 10, 2024, <https://2021-2025.state.gov/2024-report-to-congress-on-section-5-of-the-elie-wiesel-genocide-and-atrocities-prevention-act-of-2018-p-l-115-441-as-amended/>.

⁶⁷ "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," Advisory Opinion, ICJ Reports, 2004 (July 9), <https://www.icj-cij.org/sites/default/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>.

⁶⁸ "2023 Is the Deadliest Year on Record for Palestinians in the West Bank," Médecins Sans Frontières, December 15, 2023, <https://www.doctorswithoutborders.org/latest/palestinians-west-bank-2023-was-deadliest-year-record>.

⁶⁹ Sarah Yager, "How Biden Failed on Human Rights," *Foreign Affairs*, January 14, 2025, <https://www.foreignaffairs.com/united-states/how-biden-failed-human-rights>.

expressed concerns about the damage to America's global standing, the increased likelihood of terrorism in the Middle East, and the risk of becoming bogged down in a broader war.

Inside the office dedicated to advocating for human rights in the Middle East, it became increasingly difficult to carry out the department's mission. For example, when engaging with human rights defenders from elsewhere in the region, they wished to speak primarily about Gaza and the atrocities that the United States was enabling there. Human rights officers would try to shift the conversation to focus on the harassment these individuals faced from their own governments, and how the U.S. might be able to assist their human rights advocacy, but these human rights defenders prioritized the plight of Palestinians in Gaza. There was little that the human rights office could offer to assuage their alarm, given the clear intention of the U.S. government to continue arming Israel. Given the increasingly loud charges of hypocrisy, American officials deemphasized human rights to the extent that a representative of an Arab government inquired hopefully whether this reduced focus on human rights reflected a new guideline for the region as a whole. Within the State Department, some efforts were made to try to limit the weapons provided to Israel. For example, Deputy Assistant Secretary at the Bureau of Democracy, Human Rights, and Labor Christopher Le Mon recommended denying more than a dozen arms packages.⁷⁰ Yet other than a brief delay of rifles to Israeli settlers, such concerns were repeatedly overruled.⁷¹

The history of America's unwillingness to sacrifice the profits of the U.S. defense industry to the rule of law, combined with the unique privilege enjoyed by the state of Israel, should have meant that U.S. support for Israel in the aftermath of October 7, 2023, was not surprising. Yet even the Israeli military expected the United States to allow them to carry out the indiscriminate bombing campaign only for a matter of weeks before reining in the scale of destruction, as the U.S. had repeatedly done in the

⁷⁰ Humeyra Pamuk, "Special Report: Emails Show Early U.S. Concerns over Gaza Offensive, Risk of Israeli War Crimes," Reuters, October 4, 2024, <https://www.reuters.com/world/middle-east/emails-show-early-us-concerns-over-gaza-offensive-risk-israeli-war-crimes-2024-10-04/>.

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past.⁷² Instead, the Biden administration violated American laws and bypassed Congress to rush an unprecedented \$17.9 billion in weapons and security assistance to Israel, all while lying to the American public about working tirelessly toward a ceasefire.

Although Israel's human rights abuses receive special dispensation, the U.S. also routinely ignores violations by other governments in the Middle East. The breadth of U.S. military partnership with the governments of the Middle East is paralleled by the scale of these governments' human rights abuses. The priority given to the former means that even at the State Department office dedicated to this task, the scope for advocating for human rights was limited.

The exception to this was in countries like Iran and Syria, where the lack of an existing U.S. relationship with these governments meant that the U.S. frequently criticized and imposed sanctions for human rights abuses, and did not sell weapons or provide military assistance. This suggests that human rights concerns did not drive U.S. foreign policy, but rather were used as a means of justifying the policy the administration already wished to pursue. Within the State Department office dedicated to advocating for human rights in the Middle East, there was little interest in questioning why Iranian and Syrian human rights abuses received significant attention from the rest of State, while the abuses by governments like Egypt and Saudi Arabia received significantly less, and those by Israel and the UAE almost none at all.

The U.S. prefers to use sanctions, which are less threatening to the weapons industry, rather than applying existing laws intended to end arms sales to human rights abusers. For countries or entities that are not subject to comprehensive sanctions, the U.S. government sanctions some individuals or entities accused of human rights violations, rather than upholding laws such as Section 502B of the Foreign Assistance Act, because doing so could threaten the entire bilateral relationship, which would also deprive U.S. weapons manufacturers of a valuable customer. For example, soon after

⁷² Gregg Carlstrom, "The Outlook for the Middle East Depends on Three Cantankerous Old Men," *The Economist*, November 20, 2024, <https://www.economist.com/the-world-ahead/2024/11/20/the-outlook-for-the-middle-east-depends-on-three-cantankerous-old-men>.

taking office, the Biden administration sanctioned the individuals involved in the brutal murder of Jamal Khashoggi (although notably avoided sanctioning Crown Prince Mohammed bin Salman himself) but refrained from withholding weapons sales to the Saudi government, despite President Biden's campaign pledge to do so.⁷³

The Biden team launched an initial effort to reform the proliferation of U.S. sanctions. Yet the administration ultimately introduced more sanctions than any previous U.S. president, some of which were for human rights abuses.⁷⁴ Throughout 2023, the U.S. sanctioned more than 150 people in 13 countries for human rights violations, including in China, Iran, Afghanistan, Haiti, the Democratic Republic of the Congo, Uganda, Liberia, South Sudan, and the Central African Republic.⁷⁵

In February 2024, the Biden administration imposed sanctions on Israeli entities for the first time, sanctioning four Israeli settlers for committing acts of violence against Palestinians in the West Bank.⁷⁶ Later in 2024, the Biden administration added illegal Israeli settlements themselves to the list of sanctioned entities.⁷⁷ The sanctions had minimal impact, as communities raised tens of thousands of dollars for sanctioned individuals; in general, settlers were undeterred from illegally seizing Palestinians' land and committing violence against Palestinians.⁷⁸ A more significant signal would have been for the Biden administration to sanction high-ranking Israeli officials, such as National Security Minister Itamar Ben-Gvir and Finance Minister Bezalel Smotrich, but

⁷³ Phil Stewart, "U.S. imposes Sanctions, Visa Bans on Saudis for Journalist Khashoggi's Killing," Reuters, February 26, 2021, <https://www.reuters.com/article/world/us-imposes-sanctions-visa-bans-on-saudis-for-journalist-khashoggis-killing-id-USKBN2AQ2QI/>.

⁷⁴ For an excellent overview of how the U.S. came to rely so heavily on sanctions as a foreign policy tool, see Jeff Stein and Federica Cocco, "How Four U.S. Presidents Unleashed Economic Warfare Across the Globe," *Washington Post*, July 25 2024, <https://www.washingtonpost.com/business/interactive/2024/us-sanction-countries-work/>.

⁷⁵ Daphne Psaledakis and Michael Martina, "U.S. Sanctions Dozens of People Worldwide over Human Rights Abuses," Reuters, December 8, 2023, <https://www.reuters.com/world/us/us-sanctions-dozens-people-worldwide-over-human-rights-abuses-2023-12-08/>.

⁷⁶ Yasmeen Serhan, "What to Make of Biden's Historic Sanctions on Israeli Settlers," *Time*, February 1, 2024, <https://time.com/6591139/biden-israel-executive-order-sanctions/>.

⁷⁷ "U.S. Places West Bank Settlements, Settlers, under Sanctions," *Washington Post*, March 14, 2024, <https://www.washingtonpost.com/world/2024/03/14/west-bank-settlement-sanctions-biden/>.

⁷⁸ Sam Mednick and Julia Frankel, "Takeaways from AP's Report on Sanctioned Settlers in the West Bank," Associated Press, June 6, 2024, <https://apnews.com/article/us-sanctions-israeli-settlers-west-bank-palestinians-501e6bad17911341eda242372f621eda>.

President Biden refused. In one of his first foreign policy decisions, President Trump lifted sanctions on extremist settlers in the West Bank.⁷⁹

Conclusion

The myth that American primacy upholds human rights lies buried beneath the rubble of Gaza. Although America's reputation for human rights advocacy was already frayed before the United States enabled Israel's genocidal assault on the Palestinian enclave, the myth had still persisted both among Americans and among those advocates of human rights who continued to receive support from the U.S. government. Under the Trump administration, even this support has largely ended.⁸⁰ Yet arguably, President Biden's support for the human rights of Ukrainians but not the human rights of Palestinians did more damage to the overall cause of human rights advocacy.

The United States has long prioritized the provision of security assistance, specifically foreign military sales, as a key aspect of American foreign policy. The influence of the defense industry — one of the country's wealthiest and most powerful lobbies — transforms weapons sales from solely an arm of foreign policy into a significant domestic issue. This persists even though weapons manufacturing provides only a tiny fraction of the American labor market. The profit motive of the defense industry aligns with the pursuit of military primacy, such that weapons sales are prioritized even when they undermine America's long-term security or interests.

As the global balance of power becomes increasingly multipolar, the U.S. foreign policy establishment views weapons sales as one of the only arenas within which the United States can compete with China and demonstrate America's continued military primacy. The establishment incorrectly conflates the country's role as the world's foremost weapons dealer with American self-interest. Rather than uphold American laws in a

⁷⁹ Jonathan Landay and Humeyra Pamuk, "Trump Cancels Sanctions on Israeli Settlers in West Bank," Reuters, January 21, 2025, <https://www.reuters.com/world/trump-cancels-sanctions-far-right-israeli-settlers-occupied-west-bank-2025-01-21>.

⁸⁰ Edward Wong, Michael Crowley, and Alan Rappeport, "State Dept. Fires About 60 Contractors Working on Democracy and Human Rights," *New York Times*, February 3, 2025, <https://www.nytimes.com/2025/02/03/us/politics/democracy-human-rights-fired.html>.

manner that would jeopardize weapons sales, and therefore undermine U.S. military primacy, the government primarily enforces consequences for human rights abuses on countries that the U.S. already considers adversaries, and so are not purchasing American weapons. The pursuit of primacy contradicts America's expressed commitment to human rights, because the U.S. government will consistently prioritize maintaining arms sales over human rights.

As long as the maintenance of American military primacy — which requires a robust defense industrial sector — remains the overarching objective of U.S. foreign policy, the United States will never prioritize the protection of human rights. This is shortsighted, as the interests of the U.S., rather than those of the defense industry, are best served by fewer wars, and by devoting more resources to the health, education, and well-being of Americans than to lining the pockets of defense executives.

If the U.S. government wished to take seriously its legal commitments to protecting human rights, it would require a fundamental shift in U.S. foreign policy, away from military primacy and weapons sales. A foreign policy of military restraint would provide greater flexibility, enabling the U.S. to adhere to its legal commitments to withhold American weapons from human rights abusers. This would not only bolster efforts to uphold human rights around the world, it would reduce the stream of weapons that the U.S. currently pumps into the global market each year, which undermines global as well as American security.⁸¹ Yet as long as U.S. policy remains unchanged, the question posed by Jimmy Carter, as a candidate in 1976, will remain: "Can we be both the world's leading champion of peace and the world's leading supplier of the weapons of war?"⁸²

⁸¹ Aslı Bâli, "The Humanitarian Paradox: Why Human Rights Require Restraint," Quincy Institute for Responsible Statecraft, August 1, 2022, <https://quincyinst.org/research/the-humanitarian-paradox-why-human-rights-require-restraint/#>.

⁸² "Address by Jimmy Carter," June 23, 1976, in *Foreign Relations of the United States, 1977–1980, Volume II*, <https://history.state.gov/historicaldocuments/frus1977-80v01/d6>.

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