

# JVP Policy Briefing: Applying the Leahy Law to Israel

*June, 2015*

## Issue Summary

Members of Congress should urge the State Department to vet military aid allocated to Israel so that no aid reaches Israeli military units accused, based on credible information, of having committed gross violations of international human rights or humanitarian law.

## Background

The Leahy Law is an amendment to the Foreign Assistance Act first adopted in 1998, which applies to all State Department funded assistance (training and arms sales). A similar provision exists in annual Department of Defense Appropriations Acts. These laws prohibit the United States from providing funding to foreign military units if there is

“credible information” those units are involved in “gross violations of human rights” with impunity<sup>i</sup>. In 2011, the Leahy Law was amended to require the State Department to maintain a “current list of all security force units receiving training, equipment, or other types of assistance.”<sup>ii</sup>

Although Congress has already given the Executive Branch the power to restrict military aid to a country with a pattern of human rights abuses<sup>iii</sup>, the Leahy Law requires that it withhold aid to specific military units found to have committed the most serious human rights violations.

The goal of the law is to end flagrant disregard of human rights and to promote accountability over military and other security forces. While its application is fairly secretive, due to diplomatic sensitivity, media reports indicate that it has been applied in Colombia, Indonesia, Bangladesh and the Philippines. According to international human rights organizations, such as Amnesty International, the Leahy Law has had an impact on the behavior of governments and has saved lives since its passage.<sup>iv</sup>

The United States has provided more than \$121 billion in cumulative bilateral assistance to Israel since World War II—more than to any other country in the world. Almost all U.S. aid to Israel is granted in the form of grant military assistance. Israel also receives benefits that no other country receives, such as transfer of its annual military aid to an Israeli account at the beginning of the fiscal year and the ability to use a portion of its aid from the U.S. to purchase weapons from Israeli manufacturers.<sup>v</sup>

For decades, international human rights organizations have documented Israeli human rights violations committed against Palestinians living under its effective control. They have recently argued that U.S. military aid to Israel should be subject to the rigors of the Leahy Law.<sup>vi</sup>

According to Israeli human rights organization B'tselem, Israel has a decades long policy of extra-judicial assassination.<sup>vii</sup> Israeli military and border police have likewise used American non-lethal weapons improperly, resulting in the unnecessary deaths of Palestinian civilians, such as 10 year old Abir Aramin, shot with a rubber bullet to the back of her head.<sup>viii</sup>

Senator Leahy himself has also made public statements about the law's applicability to Israeli military units involved in the deaths of nine Turkish civilians aboard a flotilla of ships headed for Gaza.<sup>ix</sup>

Of course, there are also numerous examples from Israel's conduct in Gaza, which resulted this summer in the deaths of more than 2,000 Palestinians. However, there appears to be no mechanism for tracking which Israeli military units ultimately receive items paid for with U.S. aid or how the aid is allocated.<sup>x</sup>

For the sake of consistent application of U.S. law, Israel should be subject to the same requirements as other countries.

## Recommendations

### 1.

U.S. aid to Israeli security forces should be subject to the same vetting requirements as.

### 2.

Lawmakers should call upon the State Department to track which Israeli military units receive training or equipment funded by U.S. military aid.

### 3.

The State Department should carefully review documentation from human rights organizations and international bodies to determine whether credible information exists to indicate that a particular Israeli security force unit has engaged in gross human rights violations. The list of units found to have engaged in such abuses should be made public. If diplomatic sensitivities preclude publication of this list, members of Congress should at least be briefed on which units are off limits until the government of Israel investigates and holds responsible parties accountable.

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<sup>i</sup> Gross violations of human rights can include, but are not limited to, torture, cruel, inhuman or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person. According to the State Department, extrajudicial killings, a commonly employed Israeli tactic against Palestinian militants, are encompassed by this definition. See Section 502B(d)(I) of the FAA (22 U.S.C. §2304(d)(I)) cited in “Leahy Law” Human Rights Provisions and Security Assistance: Issue Overview”, Nina Serafino et al., Congressional Research Service, Jan 24, 2014.

<sup>ii</sup> FAA Section 620M (22 U.S.C. §2378d)

<sup>iii</sup> See FAA Section 502B (22 U.S.C. §2304)

<sup>iv</sup> Strifflino, Kathryn R., “Deconstructing the Leahy Law: Fact v. Fiction”, Human Rights Now Blog, July 9, 2013 [<http://blog.amnestyusa.org/africa/deconstructing-the-leahy-law-fact-vs-fiction/>].

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<sup>v</sup> “U.S. Foreign Aid to Israel,” J.M. Sharp, Congressional Research Service, April 11, 2014.

<sup>vi</sup> “Human Rights Watch Letter to Secretary Kerry”, August 11, 2014.  
[<http://www.hrw.org/news/2014/08/11/human-rights-watch-letter-us-state-secretary>].

<sup>vii</sup> [http://www.btselem.org/press\\_releases/20010123](http://www.btselem.org/press_releases/20010123)

<sup>viii</sup> “Hold Israel Accountable with the Leahy Law”, Ruebner, Josh, The Hill,  
[<http://thehill.com/blogs/congress-blog/foreign-policy/177199-hold-israel-accountable-with-leahy-law>].

<sup>ix</sup> <http://www.haaretz.com/print-edition/news/u-s-senator-seeks-to-cut-aid-to-elite-idf-units-operating-in-west-bank-and-gaza-1.378800>

<sup>x</sup> “Human Rights Watch Letter”, August 11, 2014.