

# United States Senate

WASHINGTON, DC 20510

May 5, 2025

The Honorable Gene Dodaro  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Comptroller Dodaro:

We write to request that the U.S. Government Accountability Office (GAO) conduct a thorough investigation of the U.S. Government's implementation of certain U.S. laws regarding the delivery of humanitarian assistance and assistance to foreign security forces. Specifically, we request the scope of the investigation to include the U.S. Government's interpretation of, and compliance with, Section 620I of the Foreign Assistance Act and the Leahy Laws. It is essential to ensure that U.S.-provided assistance is used in accordance with U.S. law. We are therefore asking for a non-partisan and fact-based assessment to clarify whether and how these two laws are interpreted and implemented by the Executive Branch and whether either law has been violated.

**Section 620I of the Foreign Assistance Act:**

Section 620I of the Foreign Assistance Act states: "No assistance shall be furnished under this chapter or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance." Pursuant to subsection (c) of 22 USC 2378-1, the President is required to provide Congress with a report if he has determined that providing assistance to a country blocking or restricting U.S. humanitarian assistance is "in the national security interest of the United States." The President has delegated responsibility for execution of this provision of law to the Secretary of State.

Around the world, we have seen how restrictions on humanitarian assistance have devastating consequences, exacerbating the harms faced by millions of innocent civilians living in conflict zones. In Ethiopia, Sudan, Ukraine, Burma, Syria, Nagorno-Karabakh, and Gaza, vital humanitarian assistance such as food, medical equipment, water purification systems, and other lifesaving goods have been blocked or restricted, directly and indirectly, by state and non-state actors. It is imperative that recipients of U.S.-supplied weapons and munitions act in accordance with U.S. laws, including Section 620I.

Section 620I is an essential tool for ensuring that recipients of U.S. assistance are not at the same time obstructing or denying U.S humanitarian assistance to those in need. However, to date, Congress has only received one written waiver from a President pursuant to Section 620I, in 1995. Since then, no President has sent a waiver to Congress nor halted assistance under the Foreign Assistance Act or AECA pursuant to this law. A central question driving this inquiry to GAO regarding Section 620I is whether the lack of application of this provision since 1995 is

due to the absence of circumstances in which this law would have applied, or whether this law has not been adhered to as intended.

### **Leahy Law Vetting:**

The Leahy Laws are two statutory provisions that prohibit the supply of U.S. assistance to any foreign security force unit implicated in a “gross violation of human rights” (GVHR), including torture, extrajudicial killing, enforced disappearance, and rape. The Defense Department Leahy Law, codified in 10 U.S.C. §362, prevents the use of Defense Department funds for “any training, equipment, or other assistance” to a unit when the Secretary of Defense has credible information that the unit has committed a GVHR. The prohibition does not apply if the Secretary of Defense, in consultation with the Secretary of State, determines that the foreign government has taken “all necessary corrective steps,” or if the equipment is deemed necessary to support disaster relief operations.

The State Department Leahy Law, codified at 22 U.S.C. §2378d, is similar, and prohibits assistance to units implicated in GVHRs, but does not apply if the Secretary of State determines that the government of the recipient country is taking effective steps to bring the responsible members of the security forces unit to justice. It requires the Secretary to publicly identify any barred unit, unless the Secretary determines, “on a case-by-case basis,” that public disclosure of such unit is not in the U.S. national security interest. In 2022, the State Department Leahy Law was amended to address situations where the recipient unit cannot be identified in advance of a transfer of assistance. The Secretary is required to proactively provide the recipient government a list of units that are prohibited from receiving U.S. assistance in cases when units cannot be identified prior to the country receiving such assistance. The amended law also requires that, in the event that a recipient government withholds assistance from a unit pursuant to the amended law, the Secretary must inform the appropriate Congressional committees.

The Leahy Laws are an important oversight tool for U.S. policymakers to ensure that no U.S. tax dollars are used to support foreign security force units that have committed GVHRs. However, the Leahy Laws must be implemented consistently to all recipients of U.S. assistance. There have been multiple reports outlining the inconsistent application of these laws in the case of some U.S. security partners, including Israel, which undermines the original intent, and statutory requirements, of these laws. Since the passage of the Leahy Laws, no Israeli security force unit has been deemed ineligible for U.S. assistance pursuant to the Leahy Laws, despite credible reports of GVHRs committed by IDF units over many years. For example, in April 2024, the State Department announced that five Israeli security force units had committed GVHRs, but concluded that four of the five had met the standard for sufficient remediation for those violations. In the case of the fifth unit, the Netzah Yehuda battalion, which has been implicated in the death of Palestinian-American Omar Assad, the Biden Administration announced that this unit remained eligible for U.S. assistance before determining that effective remediation had occurred. There are other ways the application of the Leahy Laws can be improved, as outlined in a 2016 GAO report on strengthening end-use monitoring and human rights vetting for Egypt. Policymakers require a better understanding of how the Executive Branch interprets existing statutory requirements under the Leahy Laws, and why the process for vetting and remediation is not the same for all U.S. recipients in the case of traceable and non-traceable assistance.

Following briefings and meetings with officials at the National Security Council, the State Department, the U.S. Agency for International Development, and the Department of Defense, we are concerned that there have been repeated failures to implement these laws due to divergent and, at times, contradictory interpretations. The lack of consensus within the State Department on Section 620I has been noted in several public reports, including in a September 24, 2024 *ProPublica* article, which highlights interagency disagreement regarding the threshold at which Section 620I was triggered in the case of Israel.

To better understand how these oversight tools are interpreted and implemented, we request GAO to consult with civil society and other relevant experts to conduct a thorough investigation of the interpretation of and compliance with Section 620I and the Leahy laws. The study should:

1. Examine whether, since 2015, there were instances when the State Department failed to consistently interpret and apply the Leahy Laws or Section 620I regarding a country's eligibility to receive United States assistance.
2. Examine the Department's process for determining under Section 620I whether a recipient of U.S. assistance "prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance." Specifically:
  - a. Does State have an existing process by which such a determination is made? If so, which specific offices/bureaus lead and participate in this process? Has the State Department's Office of the Legal Adviser provided legal opinions regarding the application of Section 620I?
  - b. Who, if any specific office or individual, is charged with communicating this determination to the President?
  - c. How does State interpret "prohibit, or otherwise restrict" when it comes to blocking or restricting humanitarian assistance?
3. Examine whether, since 2015, State has determined under Section 620I that recipients of U.S. assistance have prohibited or otherwise restricted, directly or indirectly, the transport or delivery of U.S. humanitarian assistance.
  - a. For any cases found, was there an interagency review process specifically focused on this provision of law?
  - b. Are there cases when an existing interagency process was triggered, but a determination was not forwarded to the President?
  - c. Were there different interpretations of Section 620I between these cases? If so, what were the differences?
4. Determine whether there is an existing interagency rubric, standard, or fact pattern followed to make a Section 620I determination.
5. Determine how State defines "government of such country" when making the determination pursuant to Section 620I. Specifically, could the action of a single official of the government in question trigger a determination, or does a determination only concern an official government policy or action?
6. Determine what types of assistance, provided through what mechanisms and entities, are deemed to be "United States humanitarian assistance" under Section 620I.
7. Examine whether there is an existing process for determining which types of assistance would be paused pursuant to Section 620I if the President certifies that a recipient of U.S. assistance is not in compliance with the law.

8. Determine how the State Department defines “assistance” under the Leahy Laws.
9. Examine the processes by which the Secretary of State determines that the public disclosure of certain ineligible units under the State Department Leahy Law is not in the interest of U.S. national security.
10. Examine the processes for reviewing allegations of GVHRs under the Leahy Laws for countries that receive assistance “provided in a manner in which the recipient unit or units cannot be identified prior to the transfer of assistance.”
  - a. Examine the steps the State Department has taken so far to comply with the amendments made in 2022 to the State Department Leahy Law to include non-traceable assistance, including Foreign Military Financing assistance.
11. Determine the list of countries that have unique Leahy Law vetting procedures that are similar to the Israel Leahy Vetting Forum.
  - a. Is there an existing procedure for determining the circumstances in which unique vetting procedures are required for certain recipients of U.S. assistance?
  - b. If a unique vetting procedure is determined to be necessary, what process, if any, exists for developing such a vetting procedure?
12. Determine whether there have been any cases, over the last five years, when an IDF unit was alleged to have committed a GVHR but there was not a consensus within the Departments of State or Defense that a GVHR had occurred, and for that reason the Leahy Law was not applied but U.S. assistance to such unit was withheld.

We appreciate your attention to this request. If you have any questions or need additional information, please reach out to our staff.

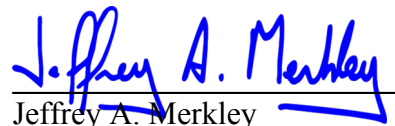
Sincerely,



Chris Van Hollen  
United States Senator



Richard J. Durbin  
United States Senator

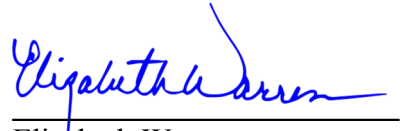


Jeffrey A. Merkley  
United States Senator



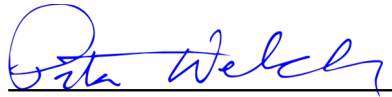
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Bernard Sanders  
United States Senator



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Elizabeth Warren  
United States Senator



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Peter Welch  
United States Senator