

Congress of the United States

Washington, DC 20515

November 1, 2024

President Joe Biden
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President,

In light of recent regional escalations, including exchanges in hostilities between Israel and Iran and the Israeli government's ground invasions of Lebanon and Gaza, we are deeply concerned about the increasing role and involvement of the U.S. Armed Forces in expanding wars across the Middle East. American military involvement in these wars has not been authorized by the United States Congress, as required by the Constitution and U.S. law. The American people have made it clear that they want to see an immediate ceasefire, an end to these wars, and the return of hostages, not deepening American involvement in potentially endless regional war.

Congress has the sole power to declare war under Article I, Section 8, Clause 11 of the Constitution. As Section 5(c) of the War Powers Resolution of 1973 makes abundantly clear, Congress holds the power to direct the removal of any Armed Forces engaged in hostilities outside the territory of the United States without a declaration of war or specific statutory authorization.¹ Absent an imminent or actual sudden attack on the United States, its territories or possessions, or its armed forces, the Executive Branch may not introduce U.S. armed forces into hostilities without Congress' prior approval.

Section 8(c) of the War Powers Resolution of 1973 defines the introduction of Armed Forces to include "the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities."² The "purpose of this provision," according to the law's accompanying report by the Senate Foreign Relations Committee, was to "prevent secret, unauthorized military support activities and to prevent a repetition of many of the most controversial and regrettable actions" related to that era's spiraling regional conflict.³

Likewise, the U.S. Congress has repeatedly voted to affirm that the War Powers Resolution can apply to U.S. intelligence-sharing operations with foreign forces that are engaged in hostilities.⁴

¹ War Powers Resolution of 1973, 50 U.S.C. § 1544(c)

² War Powers Resolution of 1973, 50 U.S.C. § 1547(c)

³ Congressional Research Service, "The War Powers Resolution: Concepts and Practice," Matthew C. Weed, March 8, 2019, <https://crsreports.congress.gov/product/pdf/R/R42699/16>.

⁴ Congressional Record S7563-S7565, December 13, 2018, <https://www.congress.gov/115/crec/2018/12/13/CREC-2018-12-13-pt1-PgS7540.pdf>; Congressional Record H4939, September 22, 2021,

Importantly, under the War Powers Resolution, the term “hostilities” also “encompasses a state of confrontation in which no shots have been fired but where there is a clear and present danger of armed conflict.”⁵

Despite the Administration’s stated goal of avoiding a regional war, increasingly dangerous escalations have been made possible by transfers to the Israeli government of billions of dollars’ worth of weapons and military aid, comprehensive intelligence sharing and operational coordination,⁶ and diplomatic cover from the United States in the face of widespread condemnation from the international community. U.S. Special Operations and intelligence personnel have participated in the locating of individuals for targeting purposes in Gaza without Congressional approval.⁷ We must not enable the violation of our own existing U.S. laws. Israel’s October 26th direct strike against targets on Iranian soil, which represents the most recent exchange in an escalatory spiral, is being met with Iranian officials’ public statements warning of retaliation.⁸ In the wake of this attack, a U.S. Senior Administration Official warned that, were Iran to respond, “we will be ready, and there will be consequences for Iran once again.”⁹ Meanwhile, recent reporting indicates American military officials have discussed unauthorized U.S. military strikes against Iran.¹⁰ We have already seen an increase in U.S. service members deployed to the region in areas where there is a clear and present danger of hostilities.

This current involvement, and any additional involvement or deployment, of the Armed Forces in the Israeli government’s expanding regional war fall under the definition of “hostilities” in the War Powers Resolution and are not in response to an imminent or actual attack against the United States. As such, these actions are unauthorized and are subject to Congress’ authorities pursuant to the Constitution and the War Powers Resolution. In light of these concerns, we request your urgent response to the following questions no later than two weeks from the date of this letter:

- News reports indicate that “U.S. military officials discussed options for joining Israel in its retaliation against Iran” including direct “strikes inside Iran” and “intelligence

<https://www.congress.gov/117/crec/2021/09/22/167/164/CREC-2021-09-22-pt1-PgH4880-4.pdf>.

⁵ Congressional Research Service, “U.S. Strikes on Houthi Targets in Yemen Raise War Powers Issues,” Matthew C. Weed, February 9, 2024, <https://crsreports.congress.gov/product/pdf/IN/IN12319/2>.

⁶ *Wall Street Journal*, “U.S. and Israel’s ‘Unprecedented’ Intelligence Sharing Draws Criticism,” Warren P. Strobel and Nancy A. Youssef, March 31, 2024, <https://www.wsj.com/politics/national-security/u-s-and-israels-unprecedented-intelligence-sharing-draws-criticism-a85979b4>.

⁷ *New York Times*, “U.S. ‘Fusion Cells’ Assist in Israel’s Hunt for Hamas Leaders,” Julian E. Barnes, Eric Schmitt, and Helene Cooper, October 19, 2024, <https://www.nytimes.com/2024/10/19/us/politics/us-military-intelligence-israel-hamas.html>.

⁸ *Reuters*, “Iran says it will ‘use all available tools’ to respond to Israel’s attack,” October 28, 2024, <https://www.reuters.com/world/middle-east/iran-says-it-will-use-all-available-tools-respond-israels-attack-2024-10-28/>.

⁹ The White House, “Background Press Call on Israel’s Targeted Strikes Against Military Targets in Iran,” October 25, 2024, <https://www.whitehouse.gov/briefing-room/press-briefings/2024/10/25/background-press-call-on-israels-targeted-strikes-against-military-targets-in-iran/>.

¹⁰ *NBC News*, “Israel has not briefed U.S. military officials on its plans for retaliation against Iran, U.S. officials say,” Courtney Kube, Carol E. Lee, Monica Alba, Mosheh Gains, and Andrea Mitchell, October 8, 2024, <https://www.nbcnews.com/investigations/israel-not-briefed-us-military-officials-plans-retaliation-iran-rcna174443>.

sharing” for Israeli hostilities.¹¹ National Security Advisor Jake Sullivan stated that the United States “will work with Israel” to make it the case that Iran experiences “severe consequences” for its October 1st missile launch on Israel.¹² What legal or Constitutional justification would the Administration cite for such proposed hostilities? Has Iran created a national emergency via an attack upon the United States, its territories or possessions, or its armed forces?

- Is the United States providing military services of any nature to “command, coordinate, participate in the movement of, or accompany” Israeli forces which themselves are imminently engaged in hostilities in Gaza, Lebanon, Iran, Yemen, the West Bank, Syria, or elsewhere?
- In the months of September and October, have U.S. forces been deployed “into situations where imminent involvement in hostilities are clearly indicated by the circumstances” in the region, how many times, and when will members of Congress receive reports pursuant to Section 4 of the War Powers Resolution? What is the legal basis for any such deployments?
- What is your Administration’s justification for invoking Article II “self-defense” authorities for the past year’s direct airstrikes against Yemen’s Houthis, including the October 16th airstrike by B-2 bombers against Houthi targets?¹³ Given your January acknowledgement that U.S. airstrikes were *not* stopping the Houthis,¹⁴ and have led to multiple rounds of retaliation, are such direct bombings consistent with the Commander-in-Chief’s authority to repel sudden attacks or respond to a national emergency created by attack upon the United States, its territories or possessions, or its armed forces absent Congressional authorization?

The Executive Branch cannot continue to ignore the law without Congressional intervention. In the absence of an immediate ceasefire and end of hostilities, Congress retains the right and ability to exercise its Constitutional authority to direct the removal of any and all unauthorized Armed Forces from the region pursuant to Section 5(c) of the War Powers Resolution.

¹¹ Ibid.

¹² The White House, “Press Briefing by Press Secretary Karine Jean-Pierre, National Security Advisor Jake Sullivan, and Secretary of Homeland Security Alejandro Mayorkas,” October 1, 2024, <https://www.whitehouse.gov/briefing-room/press-briefings/2024/10/01/press-briefing-by-press-secretary-karine-jean-pierre-national-security-advisor-jake-sullivan-and-secretary-of-homeland-security-alejandro-mayorkas/>.

¹³ U.S. Department of Defense, “Statement by Secretary of Defense Lloyd J. Austin III on U.S. Airstrikes in Houthi-Controlled Areas of Yemen,” October 16, 2024, <https://www.defense.gov/News/Releases/Release/Article/3937640/statement-by-secretary-of-defense-lloyd-j-austin-iii-on-us-airstrikes-in-houthi/>.

¹⁴ *The Intercept*, “Biden on Yemen Airstrikes: ‘Are They Stopping the Houthis? No. Are They Gonna Continue? Yes.’” Ryan Grim, January 18, 2024, <https://theintercept.com/2024/01/18/biden-yemen-houthi-airstrikes/>.

De-escalatory action is urgent and essential. Since October of last year, the Israeli government has killed over 43,000 Palestinians in Gaza,¹⁵ with this number likely a significant undercount.¹⁶ This includes over 16,700 children.¹⁷ Over 90 percent of the population has been displaced,¹⁸ and Palestinians throughout Gaza continue to face famine¹⁹ and starvation.²⁰ In this same period, the Israeli government has killed over 2,700 people in Lebanon, the vast majority of whom have been killed since the start of the Israeli military's ground invasion and bombing campaign last month.²¹ Over 1.2 million people in Lebanon have already been displaced.²² These campaigns of collective punishment have continued to spread, with sieges on Palestinian cities and refugee camps in the West Bank,²³ the bombing of critical civilian infrastructure in Yemen,²⁴ and escalations of belligerence with Iran²⁵ and Syria.²⁶

These destructive wars must end, as must any unauthorized U.S. involvement in them. The American public deserves a say on the issue of war. Thus, Congress' involvement and debate are necessary. Every day that passes without a ceasefire produces catastrophic loss of life and threatens further death and destruction. We have an obligation to both the living and the dead to put an immediate end to this devastation.

Sincerely,

¹⁵ *Al Jazeera*, "Israel-Gaza war in maps and charts: Live Tracker," Updated October 23, 2024,

<https://www.aljazeera.com/news/longform/2023/10/9/israel-hamas-war-in-maps-and-charts-live-tracker>.

¹⁶ *The Lancet*, "Counting the dead in Gaza: difficult but essential," Rasha Khatib, Martin McKee, and Salim Yusuf, Volume 404, Issue 10449, 237-238, July 20, 2024, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01169-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01169-3/fulltext).

¹⁷ *Al Jazeera*, "Israel-Gaza war in maps and charts."

¹⁸ United Nations Relief and Works Agency, "UNRWA Situation Report #143 on the Situation in the Gaza Strip and the West Bank, Including East Jerusalem," October 16, 2024, <https://www.unrwa.org/resources/reports/unrwa-situation-report-143-situation-gaza-strip-and-west-bank-including-east-jerusalem>.

¹⁹ Integrated Food Security Phase Classification, "Gaza Strip: IPC Acute Food Insecurity and Acute Malnutrition Special Snapshot: September 2024 – April 2025," October 17, 2024, https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Malnutrition_Sep2024_Apr2025_Special_Snapshot.pdf.

²⁰ Human Rights Watch, "Israel: Starvation Used as Weapon of War in Gaza," December 18, 2023, <https://www.hrw.org/news/2023/12/18/israel-starvation-used-weapon-war-gaza>.

²¹ *Reuters*, "Israeli strikes on Lebanon's Bekaa Valley kill more than 60, authorities say," October 29, 2024, <https://www.reuters.com/world/middle-east/israeli-strikes-lebanons-bekaa-valley-kill-more-than-60-authorities-say-2024-10-29/>.

²² United Nations High Commissioner for Refugees, "Displaced families in Lebanon yearn for peace and a return home," Dalal Harb and Houssam Hariri, October 6, 2024, <https://www.unhcr.org/us/news/stories/displaced-families-lebanon-yearn-peace-and-return-home>.

²³ *Al Jazeera*, "Aftermath of Israeli assault as military withdraws from West Bank's Jenin," September 6, 2024, <https://aljazeera.com/gallery/2024/9/6/aftermath-of-israeli-military-withdrawal-from-jenin-in-occupied-west-bank>.

²⁴ Human Rights Watch, "Yemen: Israeli Port Attack Possible War Crime," August 19, 2024, <https://www.hrw.org/news/2024/08/19/yemen-israeli-port-attack-possible-war-crime>.

²⁵ <https://www.politico.com/news/2024/10/09/israel-warns-iran-yoav-gallant-00183190>

²⁶ *Reuters*, "Israeli strikes on Syria kill at least 16 people, Syrian state media say," September 9, 2024, <https://www.reuters.com/world/middle-east/syrian-air-defences-confront-aggression-central-region-2024-09-08/>.



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