



Weaponizing Hunger: The Obstruction of Aid and the Right to Humanitarian Assistance in Gaza

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Abstract

This blog examines the legal framework of the right to humanitarian assistance applied to the case of Gaza, with particular focus on the legal pathways through which third States and humanitarian aid organizations can provide humanitarian aid in the absence of Israel's State consent. It argues that Israel, as the Occupying Power, is subject to particularly stringent obligations to ensure and facilitate humanitarian relief when the civilian population is inadequately supplied, obligations that significantly constrain its discretion to refuse access. At the same time, the paper demonstrates that international humanitarian law (IHL) does not confer an equally strong legal entitlement on third States or humanitarian organizations to deliver aid without consent, despite the unlawfulness of its obstruction. By analyzing the law of occupation, the requirement of consent, and the legality of non-consensual relief operations, the paper exposes a gap in IHL whereby the prohibition of the denial of humanitarian aid is not matched by effective mechanisms to overcome it.

Key words: International Humanitarian Law, Humanitarian Aid, Gaza, Starvation, Occupation, Collective Punishment, Consent

Introduction

The provision of humanitarian assistance during armed conflict is a core element of international humanitarian law (IHL). It embodies the principle that civilians, even amid hostilities, are entitled to protection and access to life-sustaining goods such as foodstuffs and medical supplies.¹ The obstruction of humanitarian aid is therefore not merely a matter of inadequate logistics or political friction: it strikes at the heart of the legal framework designed to preserve human dignity during armed conflict. Israel's blockade of humanitarian aid in the Gaza Strip exemplifies this problem

¹ Henckaerts, J.-M. and Doswald-Beck, L. (2009) *Customary International Humanitarian Law*, International Committee of the Red Cross, Vol 1 (Cambridge University Press) Rule 55.



acutely. As of 7 October 2023, Gaza has faced widespread denial and severe restrictions of essential humanitarian aid.² In August 2025, the Integrated Food Security Phase Classification (IPC) “*irrefutably*” confirmed the Gaza famine and stated Palestinians in Gaza are facing “*catastrophic conditions characterised by starvation, destitution and death*”.³ Even after the hostage-truce agreement that entered into force on 10 October 2025, Israel declined over one hundred aid requests within the following weeks, demonstrating a persistent pattern of obstruction.⁴ Additionally, in December 2025, Israel announced that it would ban 37 humanitarian aid organizations, including Médecins Sans Frontières, Action Aid and Oxfam Novib.⁵

This blog examines the legal avenues through which third States and humanitarian aid organizations are entitled to provide humanitarian aid to Gaza, even if Israel withholds its State consent. The central argument advanced is that Israel, as the Occupying Power, has clear and unconditional obligations to ensure and permit humanitarian relief for Gaza’s civilian population, which severely limit its discretion to withhold consent to relief operations. However, while IHL imposes strong duties on the Occupying Power, it does not provide an equally strong entitlement for third States or humanitarian organizations to deliver aid without Israel’s consent. The blog proceeds by examining the IHL obligations governing humanitarian aid in situations of occupation, the limits of the consent requirement, and the legality of non-consensual relief operations, exposing a gap in IHL in which the prohibition of aid obstruction is not matched by effective mechanisms to overcome it.

Legal Framework: The Right to Humanitarian Assistance

The starting point of this analysis is the classification of the Gaza conflict, as this determines which legal regimes are applicable to the central question. The legal regime governing the provision of humanitarian assistance varies per factual setting, depending on whether the situation constitutes

² *Obligations of Israel in Relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in Relation to the Occupied Palestinian Territory* (Advisory Opinion) [2025] ICJ Rep 196, paras 102-109 [Hereinafter: *Obligations of Israel* (Advisory Opinion)].

³ United Nations (2025) “Gaza: Famine “irrefutably” confirmed, UN humanitarian unite in plea for aid access – OCHA, OHCHR, WFP and WHO”, <https://www.un.org/unispal/document/ocha-ohchr-wfp-who-press-briefing-22aug25/>. Consulted on 6 December 2025. IPC (The Integrated Food Security Phase Classification) (2025) “Gaza Strip: Famine confirmed in Gaza Governorate, projected to expand”, <https://www.ipcinfo.org/ipcinfo-website/countries-in-focus-archive/issue-134/en/>. Consulted on 7 December 2025; *Obligations of Israel* (Advisory Opinion) para 108.

⁴ United Nations (2025), “Israel has rejected over 100 aid requests since Gaza ceasefire, UN says”, *UN News*, <https://news.un.org/en/story/2025/11/1166295>. Consulted on 6 December 2025.

⁵ Siddiqui, U. (2026), “Which aid groups is Israel banning from Gaza now – and what will it mean?”, *Al Jazeera*, <https://www.aljazeera.com/news/2025/12/31/which-aid-groups-is-israel-banning-from-gaza-now-and-what-will-it-mean>. Consulted on 25 January 2026.



an international armed conflict (IAC), a non-international armed conflict (NIAC), an occupation, or a peacetime emergency.⁶ While Israel contends that its occupation of Gaza ended with the 2005 disengagement, the United Nations (UN) affirm that Israel continues to exercise effective control over Gaza's airspace, territorial waters, population registry, and crossings, and therefore remains an Occupying Power.⁷ The removal of ground forces does not negate a situation of occupation when remote control persists.⁸ The International Court of Justice (ICJ) has consistently affirmed this position, noting that Israel's effective control over the Gaza Strip has "*increased significantly*" since 7 October 2023.⁹ This binds Israel through the law of occupation, which applies concurrently with other rules of IHL.¹⁰ This classification is crucial, as the law governing occupied territory imposes the clearest and most stringent obligations regarding the provision of humanitarian assistance.¹¹

In the case of Gaza, the obstruction of proper humanitarian aid engages several fundamental rules of IHL, particularly those derived from the law of occupation, as well as rules of customary IHL. Under the law of occupation, the Occupying Power has the primary obligation to ensure the necessary supplies for the civilian population under its control.¹² Specifically, Article 55(1) of Geneva Convention IV dictates that the Occupying Power has the duty of ensuring the food and medical supplies of the population "*to the fullest extent of the means available to it*".¹³ This provision obliges the Occupying Power to bring in necessary supplies if the occupied territory's resources are inadequate. Moreover, the ICRC commentary on Geneva Convention IV sets forth that according to Article 55(1), the Occupying Power incurs "*a definite obligation to maintain at a reasonable level the material conditions under which the population of the occupied territory lives*".¹⁴ These obligations carry a positive obligation to ensure food and medical supplies, but also, at the very least, an implicit negative obligation not to impede the provision of these supplies by third States or humanitarian organizations.

⁶ Ryngaert, C. (2013). "Humanitarian Assistance and the Conundrum of Consent: A Legal Perspective", *Amsterdam Law Forum*, 5(2): 5.

⁷ Crawford, E. and Pert, A. (2024). *International Humanitarian Law*. Cambridge: Cambridge University Press, 179-180.

⁸ Idem: 179-180.

⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136, para 78; *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* (Advisory Opinion) [2024] ICJ Rep 186, paras 92-94; *Obligations of Israel* (Advisory Opinion) paras 85-86.

¹⁰ *Obligations of Israel* (Advisory Opinion) paras 85-87.

¹¹ Dinstein, Y. (2000). "The Right to Humanitarian Assistance", *Naval War College Review*, 53(4): 79.

¹² Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949) 75 UNTS 287 (Geneva Convention IV) art 55(1); Henckaerts and Doswald-Beck 2009: Rule 55.

¹³ Geneva Convention IV art 55(1).

¹⁴ Dinstein 2000: 79.



In its October 2025 Advisory Opinion, the ICJ noted that the population in the Gaza Strip has faced “catastrophic levels of food insecurity” and deaths due to malnutrition, clearly demonstrating an inadequate supply of essential goods.¹⁵ When the population of an occupied territory is inadequately supplied, the obligations intensify under Article 59(1)-(2) of Geneva Convention IV.¹⁶ Under this provision, the Occupying Power “shall agree to relief schemes undertaken by States or impartial humanitarian organizations” and “shall facilitate them by all the means at its disposal”.¹⁷ Crucially, as the Occupying Power, Israel’s obligation under Article 59 is unconditional.¹⁸ Relief schemes must be humanitarian and impartial, and conducted without adverse distinction.¹⁹ The distribution of relief must be carried out in a regular, fair, and non-discriminatory manner, respecting the dignity and human rights of the population.²⁰

While the Occupying Power retains a right of control, this control is limited. Measures to impede aid may only be temporary and exceptional, imposed for urgent reasons of security.²¹ However, the Occupying Power may never invoke security reasons to justify the general suspension of all humanitarian activities. Furthermore, the Occupying Power cannot divert relief consignments from their intended purpose, except temporarily, in cases of urgent necessity, in the interests of the local population, and with the consent of the Protecting Power.²²

Moreover, wilfully impeding relief supplies may constitute a war crime under Article 8(b)(xxv) of the Rome Statute.²³ Customary international law likewise prohibits the use of starvation of the civilian population as a method of warfare.²⁴ Using starvation means provoking it deliberately, typically by depriving the population of objects indispensable to their survival.²⁵ This prohibition is linked to international human rights law (IHRL), as obstruction of humanitarian aid that is

¹⁵ Obligations of Israel (Advisory Opinion) para 153; IPC 2025.

¹⁶ Geneva Convention IV art 59(1).

¹⁷ Ibid.

¹⁸ Obligations of Israel (Advisory Opinion) para 94.

¹⁹ Henckaerts and Doswald-Beck 2009: Rule 55.

²⁰ Obligations of Israel (Advisory Opinion) para 101.

²¹ Idem: para 100.

²² Geneva Convention IV art 60.

²³ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90 art 8(b)(xxv).

²⁴ Henckaerts and Doswald-Beck 2009: Rule 53; This prohibition is also reflected in Additional Protocol I art 54(1) and Additional Protocol II art 14.

²⁵ Gillard, E.-C. (2019). “Sieges, the Law and Protecting Civilians”, *International Law Programme*, London: Chatham House, 9-10; Obligations of Israel (Advisory Opinion) para 144.



indispensable to wellbeing directly implicates human rights, including the right to life and the right to food.²⁶

The Requirement of State Consent and its Limits

A central legal challenge in humanitarian relief operations is the requirement of State consent, derived from the fundamental principle of State sovereignty.²⁷ Without consent of the parties in conflict, humanitarian actors cannot provide relief to the stricken population. As discussed above, in the conflict setting of an Occupation, the obligation to agree to and facilitate relief is unconditional if the population is inadequately supplied.²⁸ Denial in this context thus means breaching an existing primary obligation, rather than simply withholding discretion.

While the requirement of consent is a hallmark of humanitarian relief, sovereignty is not a “*blank cheque*” for refusing access.²⁹ States may refuse consent, but not for arbitrary or capricious reasons.³⁰ The Oxford Guidance on the Law Relating to Humanitarian Relief Operations contends that there is no single definition of ‘arbitrary’, but identifies a non-exhaustive list of circumstances where withholding consent would violate a State’s obligations under international law and would therefore be arbitrary.³¹ The list includes situations where civilians are inadequately supplied, where refusal violates fundamental human rights, and where refusal is aimed at punishing the civilian population for acts for which it is not responsible, amounting to collective punishment.³² The main weakness of IHL here, however, is the absence of an international control mechanism to objectively weigh the evidence and evaluate whether the reasons invoked are merely a “*smokescreen for what are in reality arbitrary and capricious reasons*”.³³

²⁶ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 6; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 11(1); Obligations of Israel (Advisory Opinion) paras 146, 154-155.

²⁷ Pejic, J. (2023). “Humanitarian Assistance: Between the Law and Reality”, *Lieber Institute West Point*, <https://lieber.westpoint.edu/humanitarian-assistance-between-law-reality/>. Consulted on 7 December 2025; Dinstein 2000: 84; Ryngaert, C. (2013). “Humanitarian Assistance and the Conundrum of Consent: A Legal Perspective”, *Amsterdam Law Forum*, 5(2): 9.

²⁸ Geneva Convention IV art 59; Obligations of Israel (Advisory Opinion) para 94.

²⁹ Ryngaert 2013: 9.

³⁰ Henckaerts and Doswald-Beck 2009: 196-197; Dinstein 2000: 84.

³¹ Oxford Institute for Ethics, Law and Armed Conflict. (2016). *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict*. Oxford: Oxford Institute for Ethics, Law and Armed Conflict, 22.

³² Idem: 23-24.

³³ Ryngaert 2013: 10.



Israel has justified its withholding of consent for humanitarian aid to Gaza primarily based on security and impartiality concerns, inter alia by alleging that UNRWA³⁴ staff were involved in the October 7 attack, and that terrorist groups operated within its compounds.³⁵ However, the ICJ determined that the information provided was insufficient to establish a lack of neutrality affecting UNRWA's impartiality as a humanitarian organization under Article 59 of GC VI.³⁶ These stated reasons may be regarded as arbitrary, particularly as the ICJ found Israel failed to ensure supplies or provide a credible replacement for the essential services UNRWA offered.³⁷ Furthermore, testimonies from Gazan residents suggests that the restrictions and the creation of alternative aid systems, like the Gaza Humanitarian Foundation, transform food delivery into a mechanism of “*surveillance, coercion and collective punishment*”, turning aid lines into militarized “*death traps*”.³⁸ This deliberate manipulation of aid for political and military objectives contradicts the requirement that consent should not be withheld arbitrarily, especially since the population is severely inadequately supplied.

Overcoming Obstruction: Legal Pathways Beyond State Consent

This leads to the unsettled question of whether States and humanitarian organizations are entitled to provide aid even if consent is refused. The idea that State sovereignty might be bypassed stems from the concept of ‘relative sovereignty’, where a State forfeits its right to prevent foreign actors from entering if it fails to comply with fundamental international (humanitarian) law norms.³⁹ This notion echoes the moral-political doctrine of the Responsibility to Protect (R2P).⁴⁰ Different legal bases can be advanced for states and non-governmental humanitarian actors who decide to override a State's refusal.

First, it is important to recall that arbitrary denial of humanitarian relief is itself an internationally wrongful act. In such circumstances, third States are not merely passive observers. Under Common Article 1 of the Geneva Conventions, they have an obligation to “*ensure respect*” for IHL “*in all*

³⁴ United Nations Relief and Works Agency for Palestine Refugees in the Near East

³⁵ Lieblch 2025.

³⁶ Obligations of Israel (Advisory Opinion) para 118.

³⁷ Obligations of Israel (Advisory Opinion) paras 122-124.

³⁸ Hamamra, B. and Shehab, E. (2025). “Humanitarian aid in Gaza: from lifeline to arena of violence and exclusion”, *Third World Quarterly*, 2,8; Obligations of Israel (Advisory Opinion) para 123.

³⁹ Rynjaert 2013: 11.

⁴⁰ Ibid.



circumstances” which has been interpreted as requiring States to take proactive steps to address serious violations.⁴¹ Similarly, IHRL treaties, including the International Covenant on Economic, Social and Cultural Rights, impose duties on capable States to contribute to the realization of essential rights such as food, health, and water beyond their borders.⁴²

Against this background, several legal avenues emerge. A first pathway lies in collective action through the United Nations Security Council (UNSC). Acting under Chapter VII of the UN Charter, the UNSC may adopt binding measures to ensure humanitarian access. These range from demanding that parties allow aid delivery, to imposing sanctions on actors obstructing relief, and, in exceptional cases, authorizing the use of force to secure humanitarian corridors.⁴³ Past practice demonstrates that the UNSC has, at times, authorized cross-border aid operations without the consent of the territorial State, as in Syria, or facilitated “safe zones” to enable relief delivery.⁴⁴ However, this mechanism is often paralysed in situations involving major geopolitical interests, as illustrated by the war on Gaza.

A second possible justification, derived from Article 25 of the International Law Commission’s (ILC) Draft Articles on State Responsibility, invokes the doctrine of necessity.⁴⁵ If a State or humanitarian actor’s breach of another State’s sovereignty is the only way to “*safeguard an essential interest against a grave and imminent peril*”, such as mass starvation, then the wrongfulness of that breach may be precluded.⁴⁶ Although the ILC excluded forcible intervention from the scope of necessity, relying on necessity to justify non-forcible provision of aid remains a possibility.⁴⁷

Lastly, some progressive legal readings argue that a permissive customary norm is taking shape, or is *in statu nascendi*, which dispenses with the requirement of State consent, especially when

⁴¹ Geneva Convention IV art 1.

⁴² International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, arts 2(1), 11, 12.

⁴³ Katz, E. (2020). “International Responses to the Obstruction of Humanitarian Aid”, *OpinioJuris*, <http://opiniojuris.org/2020/11/19/international-responses-to-the-obstruction-of-humanitarian-aid/>. Consulted on 8 December 2025.

⁴⁴ Ibid.

⁴⁵ International Law Commission (2001) *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries*. In: *Report of the International Law Commission on the Work of its Fifty-third Session* (A/56/10). New York: United Nations, art 25.

⁴⁶ Ibid.

⁴⁷ Ryngaert 2013: 15.



humanitarian needs are acute.⁴⁸ However, this approach is contestable from a traditional positivist point of view, as non-consenting States actively oppose it, undermining the universal State practice needed for *lex lata* status.⁴⁹

Despite these legal justifications for overriding consent, in reality, consent of all parties is usually necessary to enable the safe, rapid, and unhindered delivery of humanitarian services.⁵⁰ When a Territorial State denies consent, aid convoys and personnel face serious risks of attack or legal sanctions.⁵¹ In practice, the only reliable mechanism to authorize non-consensual humanitarian aid is through a UNSC mandate under Chapter VII, which can override state objections.⁵²

The Gaza case underscores several weaknesses in the existing legal framework. First, while IHL imposes stringent obligations on Occupying Powers, it lacks enforcement mechanisms capable of compelling compliance.⁵³ The absence of an impartial mechanism to determine whether denial of consent is arbitrary leaves civilians vulnerable to political manipulation of humanitarian access.⁵⁴ Second, the centrality of State consent sits uneasily with IHL's humanitarian objective of civilian protection. The mass starvation of the Gazan population illustrates that the right to humanitarian assistance under customary international law remains limited in scope, and that any extension of this right would require new international legislation.⁵⁵ Lastly, the Gaza case illustrates how the obstruction of humanitarian access can become intertwined with broader forms of coercion or collective punishment, signifying that the current legal framework does not sufficiently protect civilians in prolonged, high-intensity conflicts.

Conclusion

To conclude, the obstruction of humanitarian aid in Gaza represents a clear breach of Israel's obligations as an Occupying Power, which impose an unconditional duty to ensure and permit relief when the civilian population is inadequately supplied. Gaza's severe food insecurity,

⁴⁸ Stoffels, R.A. (2004). "Legal Regulation of Humanitarian Assistance in Armed Conflicts: Achievements and Gaps", *International Review of the Red Cross* 86(855), 536; Ryngaert 2013: 13.

⁴⁹ Ryngaert 2013: 14.

⁵⁰ Pejic 2023.

⁵¹ Pejic 2023.

⁵² Dinstein 2000: 86; Pejic 2023.

⁵³ Ryngaert 2013: 10.

⁵⁴ Pejic 2023.

⁵⁵ Dinstein 2000: 12.



documented risks of famine, and Israel's consistent rejections of aid requests demonstrate violations that extend beyond mere non-compliance, potentially amounting to the prohibited use of starvation as a method of warfare.⁵⁶

Beyond the strong primary obligations of the Occupying Power, international law provides a range of potential responses and obligations for third States to unlawful obstruction. However, these mechanisms remain politically constrained, and often reactive rather than preventive. Ultimately, the successful realization of the civilian population's right to receive aid in defiance of a resistant government is often a matter of political will or UN intervention rather than a clear legal entitlement for unilateral action.⁵⁷ The Gaza case thus exposes a structural weakness in IHL: while it strongly prohibits the denial of humanitarian aid, it offers limited mechanisms to overcome such obstruction when it occurs, leaving the civilian population dependent on the cooperation of the very actor that is impeding humanitarian relief.

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⁵⁶ Obligations of Israel (Advisory Opinion) paras 143-145.

⁵⁷ Pejic 2023.



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