

# **A LEGAL APPRAISAL OF ISRAEL'S PURPORTED AID DELIVERY SCHEME IN GAZA**

June 2025

## **About the International Humanitarian Law Centre**

The International Humanitarian Law Centre is an independent expert group that provides rapid and in-depth legal advice, training and advocacy on the laws of war to ensure the protection of persons in conflict zones worldwide.

Since its establishment in 2004, the Centre has been a source of legal expertise supporting humanitarian and human rights action in the Israeli-Palestinian context.

[www.diakonia.se/ihl](http://www.diakonia.se/ihl)

[jerusalem-ihl@diakonia.se](mailto:jerusalem-ihl@diakonia.se)

## Table of Contents

Introduction .....	3
I. Legal framework governing the provision of humanitarian aid .....	7
A. Who is responsible for meeting the needs of the population? .....	7
B. What are the obligations of the responsible party towards external offers of humanitarian activities? .....	9
1. Consent .....	9
2. Allow and facilitate, subject to a right of control .....	11
3. Respect and protect humanitarian personnel and objects .....	13
C. Can these rules be derogated from in special circumstances? .....	15
II. Israel's impediments on aid delivery in Gaza: a legal assessment .....	16
A. Violation of the obligation to meet the needs of the population in Gaza .....	16
B. Violation of the obligation to consent to, allow, and facilitate humanitarian activities .....	19
1. Conditions imposed by Israel make it impossible to meet the needs of the population .....	20
2. Unlawful denial of consent to other offers from impartial humanitarian organisations .....	27
C. Other violations .....	30
1. Starvation of the civilian population .....	30
2. Forcible displacement .....	31
3. Violation of the obligation to respect and protect civilians .....	35
Conclusion .....	39

## Introduction

*The following analysis is based on publicly available reports regarding the conditions imposed by Israel on the delivery of supplies to Gaza since May 2025, and their concrete effects on the population of Gaza.*

In early May 2025, Israel's Security Cabinet approved a plan called 'Gideon's Chariots', aimed at 'conquering' and 'staying' in the Gaza Strip as well as displacing its entire population to a small area in the southern part of the enclave.<sup>1</sup> The plan also established a new scheme to regulate the delivery of supplies into and within Gaza (hereafter 'Israeli-imposed delivery scheme'). This new scheme includes restrictions on the quantity of supplies allowed into Gaza, the establishment of a handful of Israeli-designated distribution 'hubs', and the involvement of private contractors.<sup>2</sup>

In the following weeks, the United States (US) officially endorsed the scheme and announced its intention to be actively involved in providing aid to Gaza under the conditions imposed by Israel.<sup>3</sup> An organisation reportedly created in early 2025, the so-called 'Gaza Humanitarian Foundation' (the Foundation),<sup>4</sup> began delivering food supplies in the Gaza Strip on 27 May 2025.<sup>5</sup> Israel has been allowing and facilitating the operations

---

<sup>1</sup> Maayan Lubell, 'Israel May Seize all Gaza in Expanded Operation, Officials Say' *Reuters* (Jerusalem, 6 May 2025) <<https://www.reuters.com/world/middle-east/israeli-cabinet-approves-expansion-gaza-offensive-broadcaster-kan-reports-2025-05-05/>> accessed 18 June 2025; Nadav Rapaport, 'What is "Gideon's Chariots", Israel's Latest Plan for Gaza?' *Middle East Eye* (Tel Aviv, 7 May 2025) <<https://www.middleeasteye.net/news/israel-plan-gaza-what-is-gideon-chariots>> accessed 18 June 2025.

<sup>2</sup> Eg Yolande Knell and Imogen Foulkes, 'US Confirms Plan for Private Firms to Deliver Gaza Aid Despite UN Alarm' *BBC News* (London, 9 May 2025) <<https://www.bbc.com/news/articles/cp92rlm300mo>> accessed 18 June 2025; Michelle Nichols and Emma Farge, 'What is the New US-Backed Gaza Aid Plan and Why Doesn't the UN Like it?' *Reuters* (Geneva, 10 June 2025) <<https://www.reuters.com/world/middle-east/new-us-backed-gaza-aid-plan-why-un-doesnt-like-it-2025-05-20/>> accessed 18 June 2025.

<sup>3</sup> See Sam Mednick, Julia Frankel, and Sarah El Deeb, 'A US-backed Group Seeks to Take Over Gaza Aid Distribution in a Plan Similar to Israel's' *The Associated Press* (Tel Aviv, 8 May 2025) <<https://apnews.com/article/gaza-aid-distribution-israel-hamas-8417c39884394656fd5328d4aebdad64>> accessed 18 June 2025; Thomas 'Tommy' Pigott, Principal Deputy Spokesperson, US Department of State, 'Department of State Press Briefing – May 15, 2025' (Washington DC, 15 May 2025) <<https://www.state.gov/briefings/department-press-briefing-may-15-2025/>> accessed 18 June 2025.

<sup>4</sup> The IHL Centre has chosen not to refer to the Foundation by its official name, 'Gaza Humanitarian Foundation', or by the acronym 'GHF', as its nature and mode of operation – detailed below – do not, in the Centre's view, warrant its characterisation as a 'humanitarian' organisation.

<sup>5</sup> Guardian staff and agencies, 'Israeli-Backed Logistics Group Says Gaza Operations Have Begun After its Director Resigned' *The Guardian* (London, 26 May 2025) <<https://www.theguardian.com/world/2025/may/27/gaza-humanitarian-foundation-ghf-aid-operation>> accessed 18 June 2025.

Public information about certain characteristics of the Foundation that are essential to assess the nature of its objectives, as well as its willingness and ability to operate pursuant to humanitarian principles (such as its sources of funding, political influence over its leadership, expertise, and experience of its staff with humanitarian activities), is limited, fluid, and contested.

of the Foundation in the Gaza Strip.<sup>6</sup> The US has also expressed support for these operations.<sup>7</sup>

At the time of writing, the Foundation has been operating in Gaza pursuant to the restrictive and coercive conditions imposed by Israel.<sup>8</sup> Very limited supplies have been distributed from only four distribution hubs opened intermittently and located exclusively in southern and central Gaza;<sup>9</sup> Palestinians have been forced to come to the distribution sites (often travelling long distances from their place of shelter), passing through heavily militarised areas controlled by the Israeli military; their access to the sites has been controlled by armed private contractors and they have been subjected to security checks carried out in a degrading manner; and sites can only be accessed by foot, forcing beneficiaries – when physically able – to carry heavy parcels back to their shelters.<sup>10</sup> These limiting and coercive conditions have already had severe humanitarian consequences. They have excluded a significant part of the population from access to relief, including those in situations of vulnerability and those located in northern Gaza, thus failing to alleviate acute food shortages and causing conditions of starvation.<sup>11</sup> These conditions have led to violent incidents resulting in hundreds of Palestinians being killed and thousands injured, including by the Israeli military, and they are also very likely to result in forced displacement.<sup>12</sup>

---

<sup>6</sup> Public communication from both the Foundation and Israel's armed forces demonstrate coordination between the two entities. Israel Defense Forces (X, 3 June 2025) <<https://x.com/IDF/status/1929778190253281517>> accessed 18 June 2025.

<sup>7</sup> Ambassador Dorothy Shea, Acting US Representative to the United Nations, 'Remarks at a United Nations Security Council Briefing on the Humanitarian Situation in Gaza' (New York, 13 May 2025) <<https://usun.usmission.gov/remarks-at-a-united-nations-security-council-briefing-on-the-humanitarian-situation-in-gaza/>> accessed 18 June 2025; Pigott (n 3); Mednick, Frankel, and Deeb (n 3); Gerry Shih and others, 'Sweeping Overhaul of Gaza Aid Raises Questions of Morality and Workability' *The Washington Post* (Washington DC, 24 May 2025) <<https://www.washingtonpost.com/world/2025/05/24/gaza-humanitarian-foundation-ghf-aid/>> accessed 18 June 2025.

<sup>8</sup> As noted in media reports, documents issued by the Foundation proposed to implement an aid distribution scheme 'along the lines of Israel's demands'. See Jamey Keaten, Wafaa Shurafa, and Sarah El Deeb, 'UN Agencies Warn that Israel's Plans for Aid Distribution Will Endanger Lives in Gaza' *The Associated Press* (Khan Younis, 13 May 2025) <<https://apnews.com/article/gaza-aid-israel-distribution-plan-un-bdbc73f4ba3bab577d7325b3bd2d7667>> accessed 18 June 2025.

<sup>9</sup> In the following pages, the term 'southern Gaza' is used to designate the Rafah and Khan Younis governorates, 'central Gaza' to designate the Deir al-Balah and Gaza City governorates, and 'northern Gaza' to designate the North Gaza governorate. Of the four distribution sites opened as of mid-June 2025, three are located in the Rafah governorate, and one in the Gaza City governorate south of the Netzarim Corridor. See Al Jazeera staff, 'Visual Guide to How the Gaza Aid Distribution Turmoil Unfolded' *Al Jazeera* (Doha, 29 May 2025) <<https://www.aljazeera.com/news/longform/2025/5/29/visual-guide-to-how-the-gaza-aid-distribution-turmoil-unfolded>> accessed 18 June 2025.

<sup>10</sup> See Section II.B below.

<sup>11</sup> See Section II.C.1 below.

<sup>12</sup> 'Humanitarian Situation Update #296 – Gaza Strip' (*United Nations Office for the Coordination of Humanitarian Affairs (OCHA) occupied Palestinian territory (oPt*), 11 June 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-296-gaza-strip>> accessed 18 June 2025. See also Sections II.C.2 and 3 below.

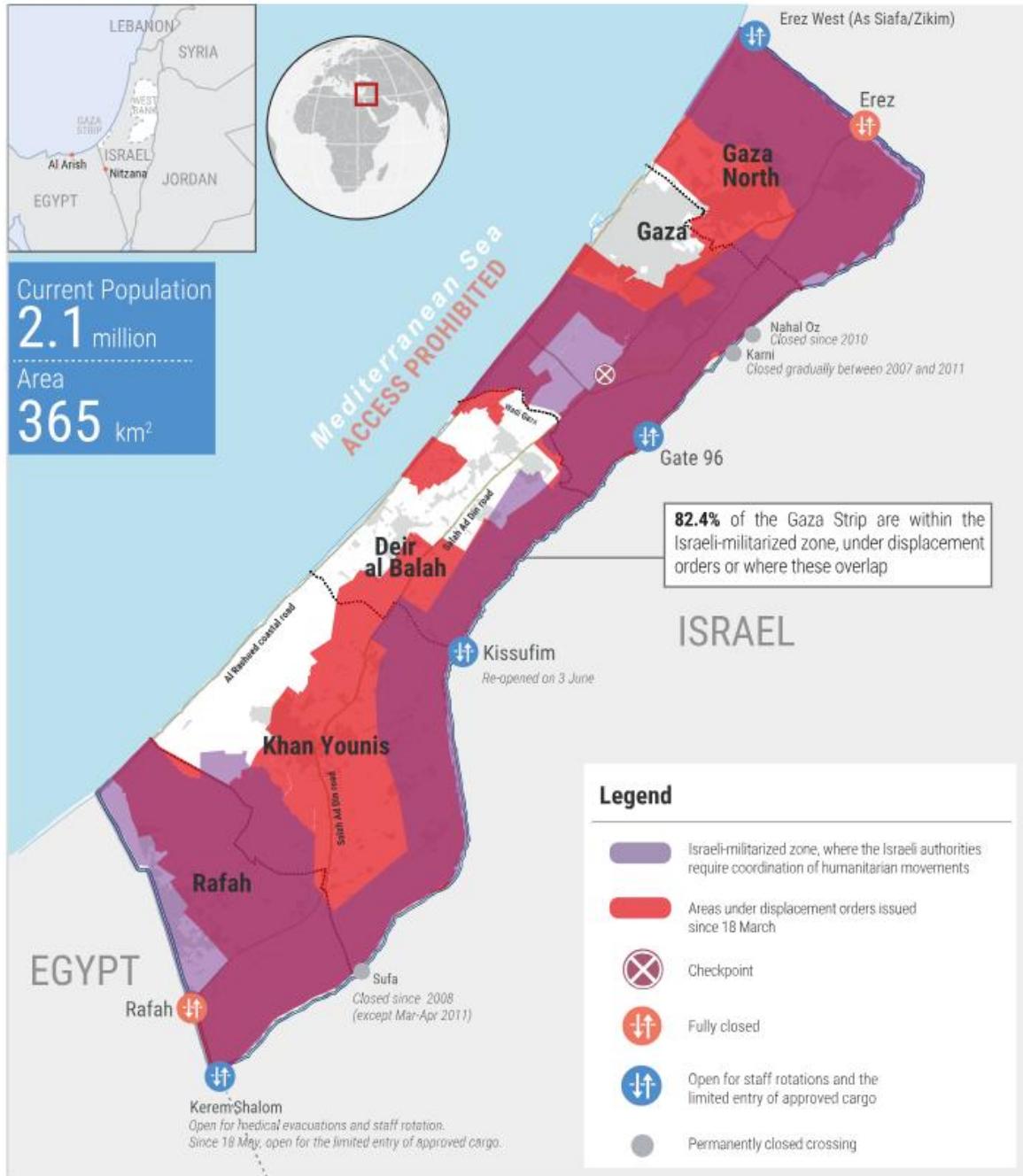
This report aims to clarify the legal requirements governing the delivery of aid in the Gaza Strip. It begins by outlining the legal framework governing the provision of humanitarian aid in armed conflict, with a focus on aspects of the law that are relevant to the situation prevailing in Gaza as of mid-2025. The report then assesses whether the conditions imposed by Israel on the delivery of aid in Gaza – and their effect in practice, as publicly reported – meet the requirements of the law. This assessment is based on an analysis of Israel's obligations under international humanitarian law (IHL) and international human rights law (IHRL).

Questions concerning the responsibility of other States, the international obligations of private entities (such as the Foundation or the private military/security companies it employs), as well as their civil liability and the potential criminal liability of State officials and private actors are beyond the scope of this publication. Given the fluid nature of political decisions and rapidly evolving factual developments, this analysis is intended to serve as a guide in assessing the legality of conditions imposed by Israel as circumstances change, and in identifying a path forward that is consistent with the requirements of international law.

The impediments to effective, safe, and dignified humanitarian aid in Gaza that are the focus of this report should be considered against the backdrop of a long series of regulatory measures and security-related impediments created by Israel to obstruct and prevent humanitarian activities in the occupied Palestinian territory (oPt).<sup>13</sup>

---

<sup>13</sup> For a detailed account and legal analysis of these regulatory measures and security-related impediments see 'Shrinking Humanitarian Space in the oPt: An IHL Assessment' (*IHL Centre*, 1 April 2025) <<https://www.diakonia.se/ihl/news/shrinking-humanitarian-space-opt/>> accessed 18 June 2025.



Map of current access restrictions and instructions for civilians to relocate in the Gaza Strip. Source: OCHA oPt, 18 June 2025

## **I. Legal framework governing the provision of humanitarian aid**

### **A. Who is responsible for meeting the needs of the population?**

During situations of armed conflict, the primary obligation to meet the needs of the civilian population rests with the party exercising control over this population.<sup>14</sup>

An occupying power has additional, specific, obligations in this regard. This is logical: in the normal course of affairs under international law, sovereign powers exercise authority over their territory and are responsible for addressing the needs of the population therein. Situations of occupation, by contrast, are temporary aberrations in which an alien power gains effective control of territory over which it does not have sovereign title, thereby displacing the rightful sovereign. In this abnormal situation, the law of occupation, which forms part of IHL, obliges the occupying power to fill the void caused by displacing the sovereign authorities and to administer the territory in lieu of the sovereign. A key provision of the law of occupation – Article 43 of the Hague Regulations – imposes an obligation on the occupying power to ensure public order and civil life in the occupied territory.<sup>15</sup> Accordingly, it must, among other things, ensure the wellbeing or welfare of the local population that has come under its control.<sup>16</sup>

Specifically, an occupying power has the duty to ensure, to the fullest extent of the means available to it, the food and medical supplies of the population of the occupied territory,

---

<sup>14</sup> 'ICRC Q&A and Lexicon on Humanitarian Access' (2014) 96 Intl Rev Red Cross 359 (ICRC Q&A) 363; Dapo Akande and Emanuela-Chiara Gillard, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (OCHA 2016) (Oxford Guidance) paras 10–13 <<https://www.elac.ox.ac.uk/wp-content/uploads/2022/06/oxfordguidancepdfpdf.pdf>> accessed 18 June 2025; Marco Sassoli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (2nd ed, Elgar 2024) s 10.232. See also *Shrinking Humanitarian Space* (n 13) 20.

The obligation of parties to the conflict to provide essential supplies to the civilian population under their control can notably be inferred from the broader IHL obligation to treat persons taking no active part in hostilities humanely (in international armed conflicts (IACs), see Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (GC IV) art 27, or Protocol (I) Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS (AP I) art 75(1); in non-international armed conflicts (NIACs), see GCs common art 3, or Protocol (II) Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (AP II) art 4; on this argument, see *Oxford Guidance* (n 14) para 14). This obligation also derives from human rights law (for instance, from the right of everyone to an adequate standard of living including adequate food, enshrined in the International Covenant on Economic, Social, and Cultural Rights of 1966 (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art 11; see *Oxford Guidance* (n 14) para 11).

<sup>15</sup> Hague Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land (adopted 18 October 1907, entered into force 26 January 1910) 205 CTS 277 (Hague Regulations) art 43.

<sup>16</sup> See also *Shrinking Humanitarian Space* (n 13) 21–22.

as well as other supplies essential to the survival of the civilian population, such as water, shelter, clothing, fuel, or electricity, together with supplies necessary for the maintenance of medical services, public health, hygiene, and institutions devoted to the care and education of children.<sup>17</sup> The duty to 'ensure the supplies' means that the occupying power *itself* must take – and bear the costs of – the necessary measures to provide such supplies to the population.<sup>18</sup>

Importantly, the occupying power must provide such supplies 'without any adverse distinction'.<sup>19</sup> This principle – often referred to as the principle of non-discrimination – draws upon the fundamental equality and dignity of all human beings.<sup>20</sup> It prohibits differentiation based on nationality, race, sex, religion or belief, political or other opinion, national or social origin, or 'on any other similar criteria'.<sup>21</sup> As is clear from the phrase 'or any other similar criteria', this list is only illustrative: discrimination founded on other grounds, such as age, past behaviour, or family connections of a person would be equally prohibited.<sup>22</sup> The principle of non-discrimination only allows differentiations based on medical or humanitarian needs.<sup>23</sup>

IHRL also informs the duties of an occupying power. It requires Israel to respect and protect the right to life of all persons in the occupied territory, which entails a duty to take

---

<sup>17</sup> On food and medical supplies see GC IV art 55. On other essential supplies see AP I art 69. In fact, GC IV art 55 already imposed the provision of other essential supplies, beyond food and medical supplies, as suggested by the wording of art 55(1) ('it should, in particular, bring in the necessary foodstuffs, medical stores and *other articles*', emphasis added) and as clarified in the ICRC Commentary to GC IV art 55, Jean S Pictet, *The Geneva Conventions of 12 August 1949 Commentary – IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War (ICRC 1958) (1958 Commentary to GC IV) art 55 310* ('[s]upplies for the population are not limited to food, but include medical supplies and any article necessary to support life'). Fuel and electricity qualify as essential to the extent that they are necessary to run hospitals, water and sanitation facilities, etc. Concerning supplies necessary for the maintenance of medical services, public health, hygiene, and institutions devoted to the care and education of children, see GC IV arts 50, 56.

<sup>18</sup> GC IV art 55 is clear in that regard: '[The Occupying Power] should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate'. The ICRC Commentary also refers to the financial and logistical costs that the occupying power will bear in discharging this obligation (which the formula 'to the fullest extent of the means available to it' is designed to take into account). See 1958 Commentary to GC IV art 55 310. See also Sassoli (n 14) para 10.236.

<sup>19</sup> AP I art 69(1).

<sup>20</sup> The two principles are understood as synonymous. Yves Sandoz, Christophe Swinarski, and Bruno Zimmermann (eds) *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Convention of 12 August 1949 (ICRC 1987) (1987 Commentary to AP I) art 70 para 2799*.

<sup>21</sup> See, for instance, GCs common art 3; AP I art 9; AP I art 75(1).

<sup>22</sup> *Commentary on the Third Geneva Convention: Convention (III) relative to the Treatment of Prisoners of War (2nd ed, ICRC 2020) (2020 Commentary to GC III) art 3 para 605*.

<sup>23</sup> 1987 Commentary to AP I art 69(1) para 2785: 'To give more blankets to old people or extra food to nursing mothers, for example, is obviously not against the principle, and on the contrary, is in accordance with its spirit'.

positive action to alleviate the effects of armed conflict.<sup>24</sup> Other human rights relevant to the context include the rights to food, water, clothing, and housing, the right to the highest attainable standard of health, and the right to education.<sup>25</sup>

The scope of an occupying power's duties under these IHL and IHRL obligations is contingent upon the degree to which it actually has the capacity to exercise control over the territory.<sup>26</sup>

## **B. What are the obligations of the responsible party towards external offers of humanitarian activities?**

### **1. Consent**

If the occupying power fails to discharge its primary obligation, resulting in the civilian population being 'inadequately supplied' (in quality or quantity, or in violation of the principle of non-discrimination), it is under an unqualified duty to consent to offers of humanitarian relief from external actors.<sup>27</sup> In short, the occupying power has the duty to meet the needs of the population of the occupied territory – i.e., to ensure it is 'adequately supplied' – by meeting such needs itself or, failing this, by consenting to external offers of humanitarian activities.<sup>28</sup>

In the context of an armed conflict, all activities that seek to preserve the life, security, dignity, and mental and physical well-being of persons affected by the conflict, or which seek to restore said well-being if it has been infringed upon, qualify as humanitarian.<sup>29</sup> The

---

<sup>24</sup> Israel is bound by relevant human rights conventions with respect to the oPt as has been confirmed by the ICJ, most recently in its Advisory Opinion of 19 July 2024. See *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem* (Advisory Opinion) [2024] (Advisory Opinion of 19 July 2024) [100] <<https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>> accessed 18 June 2025.

<sup>25</sup> For more details, see *Shrinking Humanitarian Space* (n 13) 21–22.

<sup>26</sup> This is due to the nature of many of the aforementioned obligations, which are obligations of means to be carried out with due diligence, but also the outcome of a functional approach to the law of occupation – according to which an occupying power's obligations are commensurate with the competencies that it is able to exercise in relation to the occupied territory. *ibid* 22.

<sup>27</sup> GC IV art 59(2) makes clear that '[i]f the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal'. See also AP I art 69(2); Study on Customary IHL by the ICRC 'Customary IHL Database' (ICRC, first published in 2005) (CIHL) r 55. See also Tristan Ferraro, 'International Humanitarian Law, Principled Humanitarian Action, Counterterrorism and Sanctions: Some Perspectives on Selected Issues' (2021) 103 *Intl Rev Red Cross* 109, 131; Sassoli (n 14) paras 8.268, 10.232, 10.236 (as expertly noted by Professor Marco Sassoli, 'this is the only blackletter IHL provision obliging a State to accept humanitarian assistance', para 8.268). See also ICRC Q&A (n 14) 369; *Shrinking Humanitarian Space* (n 13) 24–25.

<sup>28</sup> The 'adequately supplied' standard derives from GC IV art 59(1) ('[i]f the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes...') and from GC IV art 60 ('[r]elief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59', that is, under the provisions governing the duty to ensure food, medical, and other essential supplies).

<sup>29</sup> ICRC Q&A (n 14) 367.

humanitarian activities to which the occupying power must consent include both *services* and the delivery of *supplies* that seek to fulfil the aforementioned objectives.<sup>30</sup> Humanitarian activities that can be offered under IHL therefore have an assistance (relief) dimension and a protection dimension. Both serve the same objective: safeguarding the life and dignity of the victims of armed conflicts.<sup>31</sup>

The occupying power must accept offers of humanitarian relief that are 'impartial' in character.<sup>32</sup> 'Impartiality' implies that the relevant actor 'makes no discrimination as to nationality, race, religious beliefs, class or political opinions [and that it] endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress'.<sup>33</sup> In this sense, impartiality implies the delivery of aid on the basis of non-discrimination (as defined above) and in proportion to the needs of affected people (i.e., ensuring that those in greatest need receive assistance first and in proportion to their suffering).<sup>34</sup> (Note that 'non-discrimination' in connection to humanitarian relief can also be understood as already reflecting the principle of proportionality.<sup>35</sup>) Impartiality is often understood as also encompassing a third sub-

---

<sup>30</sup> See 2020 Commentary to GC III art 9 para 1323. For more on the notion of humanitarian activities, see Shrinking Humanitarian Space (n 13) 29–31. The phrase 'humanitarian activities' is understood in the following lines as synonymous for the terms 'humanitarian relief' (see ICRC Q&A (n 14) 373) or 'humanitarian operations' (Oxford Guidance (n 14) para 5).

<sup>31</sup> ICRC Q&A (n 14) 367.

<sup>32</sup> See CIHL r 55. Although GC IV art 59 and AP I art 69 do not expressly refer to the impartial character of the relief the occupying power must consent to (GC IV art 59(2) foresees that it may be provided 'by States and impartial humanitarian organizations'), this requirement is explicit in AP I art 70(1) ('relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken'). Although AP I art 70 does not apply in occupied territory, there is no reasonable justification for imposing a lower standard for the aid to be delivered in occupied territory. It is therefore suggested that GC IV art 59(2) should be interpreted by analogy to AP I art 70(2). In addition, the ICRC Commentaries also underline that impartiality is an 'essential' characteristic of the relief the occupying power must agree to: when referring to (third) States that may undertake relief action, the Commentary points out that '[o]nly those States which are neutral – in particular the Protecting Power – are capable of providing the *essential guarantees of impartiality*' (emphasis added). 1958 Commentary to GC IV art 59(2) 321. The ICRC Commentary to AP I art 69 also considers it 'legitimate to recognize that [...] relief actions [undertaken pursuant to this article] should comply with the condition of being humanitarian and impartial in character'. 1987 Commentary to AP I art 70 para 2784.

<sup>33</sup> Statutes of the International Red Cross and Red Crescent Movement (adopted 1986, amended 1995, 2005) pmb; *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States)* (Judgment) [1986] ICJ Rep 14 (Nicaragua v US) [242].

<sup>34</sup> See Section I.A above.

Jean Pictet understood proportionality as the endeavour 'to relieve the suffering of individuals in proportion to the degree of their suffering and to give priority according to the degree of urgency'. 'The Fundamental Principles of the Red Cross: Commentary' (ICRC, 14 December 1979) <<https://www.icrc.org/en/article/fundamental-principles-red-cross-commentary>> accessed 18 June 2025.

<sup>35</sup> Some definitions of 'non-discrimination' in connection to humanitarian relief integrate the principle of proportionality. Eg 1987 Commentary to AP I art 70 para 2802 (the relief action 'must observe: – the principle of non-discrimination, *including* the principle of proportionality', emphasis added). This also conforms to the understanding of non-discrimination under IHRL: proportionality is one established criterion when considering whether differentiated treatment is permissible under the IHRL principle of non-

principle, namely the quality of providing aid without taking sides or favouring certain groups or individuals rather than others for reasons of interest of sympathy.<sup>36</sup>

Offers of relief may emanate from any actor – third States, humanitarian organisations, private entities, or individuals.<sup>37</sup> However, the legal standard binding on the occupying power concerning the nature of the aid that it must consent to, i.e., that must be provided, remains the same: the population must be adequately supplied, in an impartial manner (including without discrimination).<sup>38</sup> If, and for as long as, the authorised aid provider is unwilling or unable to achieve this outcome, the occupying power remains under an obligation to accept offers from other actors able to meet this standard.

It is noteworthy that certain actors have a specific mandate under international law to conduct humanitarian activities – such as the International Committee of the Red Cross (ICRC) and the United Nations (UN).<sup>39</sup>

## 2. Allow and facilitate, subject to a right of control

Once it has consented to such aid, the occupying power must allow and facilitate rapid and unimpeded passage of humanitarian relief supplies, equipment, and personnel.<sup>40</sup> This

---

discrimination (eg UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (Art. 2, Para. 2, of the International Covenant on Economic, Social and Cultural Rights)' (2 July 2009) UN Doc E/C.12/GC/20 para 13; *Juridical Condition and Rights of Undocumented Migrants* (Advisory Opinion) OC-18/03, Inter-American Court of Human Rights Series A No 18 (17 September 2003) [84]. Integrating proportionality considerations into the principle of non-discrimination also seems logical: the principle of non-discrimination is not simply about whether the needs are addressed; it is also about how they are addressed. In other words, the 'differentiated treatment' prohibited under the principle of non-discrimination may be different because there is a lack thereof, or because it is different in quantity or in kind. Accordingly, a lawful 'differentiated treatment' may mean a treatment of lower standard in quantity or kind, in proportion of the needs.

<sup>36</sup> This third 'sub-principle' of impartiality is often called 'impartiality stricto sensu'. See The Fundamental Principles of the Red Cross (n 34). See also 1987 Commentary to AP I art 70 para 2802 (according to the ICRC, 'impartiality' requires 'impartiality in the real sense of the word: those conducting the action or providing the relief must resist any temptation to divert relief consignments or to favour certain groups or individuals rather than others because of personal preferences').

<sup>37</sup> Shrinking Humanitarian Space (n 13) 27.

<sup>38</sup> The ICJ, in *Nicaragua v US*, confirmed that relief complying with the principles of humanity and impartiality cannot be regarded as an unlawful intervention or a violation of international law, irrespective of the actor providing it, even when it is provided by States. *Nicaragua v US* (n 33) [242]–[243].

Note that, contrary to a widespread interpretation of the judgment, the Court did not pronounce on the binding nature of these principles on aid providers, including States, but simply outlined that aid complying with these principles benefit from the privileges and protection offered by IHL. See Kubo Macak, 'A Matter of Principle(s): The Legal Effect of Impartiality and Neutrality on States as Humanitarian Actors' (2016) 97 *Intl Rev Red Cross* 157.

<sup>39</sup> See Shrinking Humanitarian Space (n 13) 28–29.

<sup>40</sup> GC IV art 59(3) provides that '[a]ll contracting parties [which includes the occupying power] shall permit the free passage of these consignments'. GC IV art 61(2) further states that '[t]he Occupying Power shall facilitate the rapid distribution of these consignments'. AP I art 69(2), also applicable to occupied territory, provides that '[r]elief actions for the benefit of the civilian population of occupied territories [...] shall be implemented without delay'. See also GC IV art 23; AP I art 71(3); CIHL r 55. See also Oxford Guidance (n 14) paras 59–72; ICRC Q&A (n 14) 370.

obligation covers the initial entry into the country as well as movement within it.<sup>41</sup> This rule obliges parties to an armed conflict to take positive action to facilitate the passage and the tasks of relief personnel (e.g., simplifying administrative formalities as much as possible), and to refrain from arbitrarily delaying the passage of the relief consignments.<sup>42</sup> In short, they must take steps that make it easier for humanitarian aid to reach the intended beneficiaries.<sup>43</sup> The standard 'rapid' must be interpreted taking into account the needs of the population, and only reasonable delays necessary for controls are acceptable.<sup>44</sup>

As a corollary to this obligation, the relevant party is required to ensure the freedom of movement of humanitarian personnel necessary for the exercise of their functions. Restrictions may be imposed on their movements only in case of imperative military necessity, such as in the case of a military operation in a particular location, and then only temporarily.<sup>45</sup> IHL thus assumes that humanitarian organisations are best placed to identify the most appropriate modalities to deliver and distribute aid, including locations from where aid should be distributed to effectively reach all those in need, without any discrimination and impartially – per the requirements of IHL. Accordingly, the relevant party should respect and promote the ability of humanitarian organisations to work according to their own mandate, principles, and working modalities.<sup>46</sup>

The duty to facilitate humanitarian action is subject to a 'right of control'.<sup>47</sup> This means that parties have an entitlement to prescribe technical 'modalities' or 'arrangements' for the delivery of aid, with a view to ensuring themselves that relief consignments are exclusively humanitarian (e.g., searching the consignments to check that they do not contain weapons or other items that may be used for military purposes), or to prevent humanitarian convoys from being attacked or from hampering military operations (e.g., prescribing specific routes and times for delivery).<sup>48</sup>

Modalities imposed on the delivery of humanitarian aid must meet a number of conditions.<sup>49</sup> They must be applied in good faith and their nature, extent, and impact must

---

<sup>41</sup> Oxford Guidance (n 14) para 59.

<sup>42</sup> ICRC Q&A (n 14) 370-371.

<sup>43</sup> For details on this obligation and practical examples of such positive steps, see also *Shrinking Humanitarian Space* (n 13) 32-34.

<sup>44</sup> ICRC Q&A (n 14) 371.

<sup>45</sup> AP I art 71(3) provides that '[o]nly in case of imperative military necessity may the activities of the relief personnel be limited or their movements temporarily restricted'. See also CIHL r 56.

<sup>46</sup> ICRC Q&A (n 14) 374.

<sup>47</sup> CIHL r 55.

<sup>48</sup> GC IV arts 23, 59(4). In territories that are not occupied territories, see AP I art 70(3). See ICRC Q&A (n 14) 374; Oxford Guidance (n 14) paras 66-69.

<sup>49</sup> For more details, see *Shrinking Humanitarian Space* (n 13) 33. See also Oxford Guidance (n 12) paras 71-72; ICRC Q&A (n 14) 374.

not prevent the rapid delivery of humanitarian relief in a principled manner.<sup>50</sup> The duty to facilitate the rapid and unimpeded passage of humanitarian relief is an obligation of result, not means: implementation of the right of control must therefore not result in unduly delaying or making the delivery of humanitarian relief impossible; whether that is the case must be assessed in view of the impact on the population in need.<sup>51</sup> In sum, the key consideration is whether the population is 'adequately supplied' or, in other words, whether the needs of the population are met.<sup>52</sup>

In addition, and importantly, modalities imposed on the delivery of humanitarian aid must not contradict other obligations under international law – for instance, the prohibition of starvation, the prohibition of forced displacement, or the obligation to respect and protect civilians including humanitarian personnel.<sup>53</sup> Moreover, and consistent with the above-mentioned rules regarding the movement of humanitarian personnel, these modalities must allow humanitarian organisations to operate according to their mandates and humanitarian principles.<sup>54</sup>

### **3. Respect and protect humanitarian personnel and objects**

In line with their obligation to 'allow and facilitate' the passage of humanitarian aid, parties to the conflict must respect and protect humanitarian personnel and objects.<sup>55</sup> Without adequate security guarantees, humanitarian organisations are unable to effectively deliver humanitarian relief and services.

The obligation to 'respect' means, first and foremost, that parties to the conflict may not direct attacks or commit other forms of violence against them.<sup>56</sup> The obligation to 'protect', on the other hand, requires active steps to safeguard humanitarian workers and assets against acts of violence committed by third parties.<sup>57</sup> Measures to protect humanitarian personnel and objects which are incompatible with humanitarian principles shall not be imposed upon them. Humanitarian organisations do not expect absolute security guarantees: while a minimum level of security is necessary to access beneficiaries, they are prepared to accept a reasonable degree of risk.<sup>58</sup> In addition, they are best placed to evaluate which protective measures are compatible with their mandate

---

<sup>50</sup> Oxford Guidance (n 14) para 56; 2020 Commentary to GC III art 9 para 1362; ICRC Q&A (n 14) 374.

<sup>51</sup> See Shrinking Humanitarian Space (n 13) 33.

<sup>52</sup> Oxford Guidance (n 14) para 72.

<sup>53</sup> See below Section II.C.

<sup>54</sup> Sassoli (n 14) para 10.247.

<sup>55</sup> GC IV art 59(3); AP I art 71(2), specifically in occupied territories. See also CIHL rr 31, 32; ICRC Q&A (n 14) 371.

<sup>56</sup> Oxford Guidance (n 14) para 78; ICRC Q&A (n 14) 374–375.

<sup>57</sup> Human Rights Committee, 'General Comment No. 36: Article 6: Right to Life' (3 September 2019) UN Doc CCPR/C/GC/36 (General Comment 36) para 7; Commentary to CIHL r 31.

<sup>58</sup> Knut Dörmann and Tristan Ferraro, 'Humanitarian Assistance' in Dieter Fleck (ed), *The Handbook of International Humanitarian Law* (4th ed, OUP 2021) 359.

and humanitarian principles – including the principle of neutrality. This principle dictates that humanitarian organisations may not take sides in the conflict.<sup>59</sup>

Neutrality is an operational posture, rather than a moral position, that aims to facilitate access to people in distress on both sides of a front line.<sup>60</sup> The principle of neutrality could be jeopardised if humanitarian convoys are 'escorted', or if humanitarian personnel or assets are 'guarded' by armed personnel associated with one party to the conflict.<sup>61</sup> This is partly why a significant number of humanitarian organisations do not use, as a rule, armed protection.<sup>62</sup> The imposition of such measures on humanitarian missions would be incompatible with a party's obligation to respect and protect humanitarian personnel.<sup>63</sup> Rather, humanitarian organisations should be trusted to appreciate whether or not armed escorts are an appropriate and effective way to ensure their protection.

---

<sup>59</sup> The Statutes of the International Red Cross and Red Crescent Movement define neutrality in the following terms: 'In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature'. Statutes of the International Red Cross and Red Crescent Movements (n 34).

The principle of impartiality on the other hand relates to the beneficiaries of humanitarian action. It mandates to make 'no discrimination as to nationality, race, religious beliefs, class or political opinions' and to 'relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress'. *ibid.*

<sup>60</sup> Fiona Terry, 'Taking Action, Not Sides: The Benefits of Humanitarian Neutrality in War' (*ICRC Humanitarian Law & Policy Blog*, 21 June 2022) <<https://blogs.icrc.org/law-and-policy/2022/06/21/taking-action-not-sides-humanitarian-neutrality/>> accessed 18 June 2025.

<sup>61</sup> Romaric Ferraro, 'Challenges to Implementation of Humanitarian Access Norms in the Sahel' (2021) 103 *Intl Rev Red Cross* 859, 876.

<sup>62</sup> The components of the International Red Cross and Red Crescent Movement (i.e., the ICRC, the IFRC, and the National Red Cross and Red Crescent Societies of States Parties to the GCs) as a rule do not use armed protection. See Resolutions of the Council of Delegates (1–2 December 1995) 36 *Intl Rev Red Cross*, Resolution 9 <<https://international-review.icrc.org/sites/default/files/S002086040007340Xa.pdf>> accessed 18 June 2025; Council of Delegates of the International Red Cross and Red Crescent Movement: Seoul, 16–18 November 2005, 'Resolutions' (2005) 87 *Intl Rev Red Cross* 792, Resolution 7: Guidance Document on Relations Between the Components of the Movement and Military Bodies <<https://international-review.icrc.org/sites/default/files/S1816383100184553a.pdf>> accessed 18 June 2025; International Red Cross and Red Crescent Movement Council of Delegates, *Relations Between the Components of the Movement and Military Bodies* (adopted 2005) Resolution 7 <[https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2021-07/03\\_GuidanceDoc\\_MilitaryBodies\\_EN.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-07/03_GuidanceDoc_MilitaryBodies_EN.pdf)> accessed 18 June 2025 (see in particular 'Annex: Relations between the Movement's Components and Military Bodies on the Latter's National Territory', Part III.7, *ibid* 800). Non-binding guidelines issued by the Inter-Agency Standing Committee (IASC) state that '[a]s a general rule, humanitarian convoys will not use armed escorts' during humanitarian operations. Inter-Agency Standing Committee, *IASC Non-Binding Guidelines on the Use of Armed Escorts for Humanitarian Convoys* (27 February 2013) 3 <[https://b2315f08-09cf-4a7a-b224-5b9df6403e51.usfiles.com/ugd/b2315f\\_d0c151f34b714de8bec9f55e52845f21.pdf](https://b2315f08-09cf-4a7a-b224-5b9df6403e51.usfiles.com/ugd/b2315f_d0c151f34b714de8bec9f55e52845f21.pdf)> accessed 18 June 2025.

<sup>63</sup> The ICRC's Commentary to AP I art 71 indicates that the decision on this matter is left to the discretion of those who might benefit from such escort. See 1987 Commentary to API paras 2887–2888. See also Ferraro (n 61) 876.

### **C. Can these rules be derogated from in special circumstances?**

The aforementioned obligations – the obligation to meet the needs of the civilian population, as well as the duty to consent to, allow, and facilitate the passage of humanitarian aid, and to protect humanitarian personnel and objects – were designed, like all other IHL rules, to apply in the direst of circumstances. For the reasons explained below, they cannot be derogated from, and there is no valid justification or excuse for violating them.<sup>64</sup>

Compliance with these rules is not dependent upon compliance with IHL by the adversary. IHL applies on the basis of non-reciprocity: violations by one party (e.g., the taking of hostages) cannot justify violations by the other party.<sup>65</sup>

In the same vein, non-compliance with these rules as a way of exerting pressure on an opposing party or punishing a civilian population is not permitted. In fact, this would result not only in a violation of these rules, but also in the violation of the prohibition of collective punishment.<sup>66</sup>

Military necessity or the security concerns of an occupying power cannot justify non-compliance with these rules either. This is because legitimate concerns of that kind are already integrated into the rules – for instance, when IHL provides parties to the armed conflict with a 'right of control' regarding relief consignments.

Parties to IHL treaties must simply interpret and apply these rules – the obligations and rights they contain – in 'good faith'.<sup>67</sup>

---

<sup>64</sup> Whilst derogation is permitted as an exception in certain limited circumstances laid out in GC IV art 5, no such exception applies with respect to the rules related to the provision of humanitarian relief in occupied territory.

<sup>65</sup> GCs common arts 2, 3; AP I art 96(2). See also 2020 Commentary to GC III art 3 para 538; 'Reciprocity' in 'How Does Law Protect in War?' (ICRC) <[https://casebook.icrc.org/a\\_to\\_z/glossary/reciprocity](https://casebook.icrc.org/a_to_z/glossary/reciprocity)> accessed 18 June 2025.

<sup>66</sup> GC IV art 33. The imposition of collective punishment may also amount to a war crime.

<sup>67</sup> The 'pacta sunt servanda' principle, which dictates that '[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith' (Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 art 26, largely considered as reflecting customary international law already prior to its adoption) applies to all treaties, including IHL treaties.

## II. Israel's impediments on aid delivery in Gaza: a legal assessment

The IHL Centre, like multiple authorities – including the International Court of Justice (ICJ) – has taken the view that Israel is bound by the law of occupation with respect to Gaza as a function of its enduring effective control over the Strip, where and to the extent that it in fact retains such control.<sup>68</sup> Prior to the current hostilities, this control manifested in Israel's continued capacity to dictate conditions of life in Gaza, primarily through its control over the movement of persons and goods in and out of Gaza, and its related control over Gaza's supply of crucial resources including food, water, fuel, and electricity. The ongoing hostilities have expanded the degree of effective control that Israel wields over the Strip, and therefore the scope of its obligations under the law of occupation.<sup>69</sup>

Under this legal framework, Israel has an obligation to ensure that the needs of the population of Gaza are met with no adverse distinction – by meeting the needs itself or, failing this, by consenting to humanitarian activities provided by external actors.<sup>70</sup>

### A. Violation of the obligation to meet the needs of the population in Gaza

The population of Gaza is, evidently, not adequately supplied by any reasonable interpretation of the term. While inhabitants of the Gaza Strip were already facing food insecurity and a critical lack of medicines, water, shelter, and other essential supplies,<sup>71</sup>

---

<sup>68</sup> Advisory Opinion of 19 July 2024 (n 24) [88]–[94]; 'Frequently Asked Questions: ICRC's Work in Israel and the Occupied Territories' (ICRC, 31 January 2025) <<https://www.icrc.org/en/document/FAQ-icrc-work-Israel-and-occupied-territories>> last accessed 18 June 2025; Aeyal Gross, *The Writing on the Wall: Rethinking the International Law of Occupation* (CUP 2017). From the IHL Centre, see eg 'Legal Brief on the 2023 Hostilities in Israel and Gaza' (IHL Centre, 5 December 2023) <<https://www.diakonia.se/ihl/news/legal-brief-on-the-2023-hostilities-in-israel-and-gaza/>> accessed 18 June 2025; 'Israel's Expanding Obligations in Gaza Pursuant to the Law of Occupation' (IHL Centre, 15 February 2024) <<https://www.diakonia.se/ihl/news/israels-expanding-obligations-in-gaza-pursuant-to-the-law-of-occupation/>> accessed 18 June 2025; 'Analysis of Developments in North Gaza' (IHL Centre, 12 December 2024) <<https://www.diakonia.se/ihl/news/analysis-developments-north-gaza/>> accessed 18 June 2025; 'Legal Analysis of the Destruction of Healthcare in North Gaza' (IHL Centre, 16 April 2025) <<https://www.diakonia.se/ihl/news/destruction-of-healthcare-north-gaza/>> accessed 18 June 2025.

By contrast, in a March 2025 decision, the Israeli Supreme Court held that the legal test to establish that Israel occupies Gaza was not satisfied. Aligning with the Israeli government, the Court concluded that the law of belligerent occupation does not apply to most parts of the Gaza Strip. HCJ 2280/24 *Gisha and others v Government of Israel and others* (2025) (Isr.) [19]–[44].

<sup>69</sup> Israel's Expanding Obligations in Gaza Pursuant to the Law of Occupation (n 68).

<sup>70</sup> See Sections I.A and B above.

<sup>71</sup> See 'Gaza Before 7 October' (*Medecins Sans Frontieres (MSF)*, 7 June 2024) <<https://www.msf.org/gaza-7-october>> accessed 18 June 2025; BBC Visual Journalism Team, 'Gaza Strip in Maps: How 15 Months of War Have Drastically Changed Life in the Territory' *BBC News* (London, 16 January 2025) <<https://www.bbc.com/news/world-middle-east-20415675>> accessed 18 June 2025; Angelica Jacome, Director of the Food and Agriculture Organization Liaison Office with the United Nations, "People Are Already

conditions of life have deteriorated even further since the start of the hostilities in October 2023. Needs are severely compounded by Israel's targeting and destruction of infrastructure in Gaza – including residential buildings and shelters, schools, and critical civilian infrastructure such as hospitals, water and electricity installations, and agricultural lands.<sup>72</sup> According to the Integrated Food Security Phase Classification (IPC – the leading international authority on hunger crises), in spring 2025, Gaza's 2.1 million inhabitants were facing high levels of acute food insecurity, with one person in five facing starvation, and an identified risk of famine.<sup>73</sup> It was estimated that around 92 per cent of housing units in Gaza had been damaged or destroyed, and that around 90 per cent of the population had been displaced – some repeatedly since the beginning of the hostilities – thus facing significant challenges in meeting their basic needs as a result.<sup>74</sup> The large-scale number of casualties resulting from the hostilities, combined with Israeli attacks on healthcare

---

Dying of Hunger": FAO Briefing to the UN Security Council on the Food Security Crisis in Gaza' (UN, 13 May 2025) <<https://www.un.org/unispal/document/people-are-already-dying-of-hunger-fao-briefing-to-the-un-security-council-on-the-food-security-crisis-in-gaza/>> accessed 18 June 2025.

<sup>72</sup> UNGA 'Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories' (20 September 2024) UN Doc A/79/363; 'Thematic Report: Indiscriminate and Disproportionate Attacks During the Conflict in Gaza (October – December 2023)' (*Office of the United Nations High Commissioner for Human Rights (OHCHR)*, 19 June 2024) <<https://www.ohchr.org/sites/default/files/documents/countries/opt/20240619-ohchr-thematic-report-indiscrim-disprop-attacks-gaza-oct-dec2023.pdf>> accessed 18 June 2025; Human Rights Council, 'Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem, and Israel' (27 May 2024) UN Doc A/HRC/56/26 paras 42–45; Legal Brief on the 2023 Hostilities (n 68).

On the most recent military operations see eg 'Humanitarian Situation Update #290 | Gaza Strip' (*OCHA oPt*, 21 May 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-290-gaza-strip>> accessed 18 June 2025; Al Jazeera Staff, 'What is Israel's New Major Ground Offensive, Operation Gideon's Chariots?' *Al Jazeera* (Doha, 19 May 2025) <<https://www.aljazeera.com/features/2025/5/19/what-is-israels-new-major-ground-offensive-operation-gideons-chariots>> accessed 18 June 2025; Rushdi Abualouf and Raffi Berg, 'Israeli Strike Kills Dozens Sheltering in Gaza School, Officials Say' *BBC News* (Cairo/London, 26 May 2025) <<https://www.bbc.com/news/articles/cz9yjj54v3xo>> accessed 18 June 2025.

<sup>73</sup> 'Gaza Strip: IPC Acute Food Insecurity and Acute Malnutrition Special Snapshot | April – September 2025' (*Integrated Food Security Phase Classification (IPC)*, 12 May 2025) <[https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/IPC\\_Gaza\\_Strip\\_Acute\\_Food\\_Insecurity\\_Malnutrition\\_Apr\\_Sept2025\\_Special\\_Snapshot.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Malnutrition_Apr_Sept2025_Special_Snapshot.pdf)> accessed 18 June 2025.

<sup>74</sup> 'Reported Impact Snapshot | Gaza Strip (14 May 2025)' (*OCHA oPt*, 14 May 2025) <<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-14-may-2025>> accessed 18 June 2025; 'Humanitarian Situation Update #292 | Gaza Strip' (*OCHA oPt*, 28 May 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-292-gaza-strip>> accessed 18 June 2025; 'Displacement Orders are "Psychological and Physical Warfare" in Israel's Campaign of Ethnic Cleansing in Gaza' (*MSF*, 27 May 2025) <<https://www.msf.org/displacement-orders-are-psychological-and-physical-warfare-israeli-campaign-ethnic-cleansing-gaza>> accessed 18 June 2025; 'UNRWA Situation Report #168 on the Humanitarian Crisis in the Gaza Strip and the West Bank, Including East Jerusalem' (*United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)*, 24 April 2025) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-168-situation-gaza-strip-and-west-bank-including-east-jerusalem>> accessed 18 June 2025; Wafaa Shurafa and Lee Keath, 'A Palestinian Family Fleeing Israel's Bombs is Displaced for the 10th Time in 19 Months', *The Associated Press* (Gaza City, 25 May 2025) <<https://apnews.com/article/gaza-palestinians-displaced-war-israel-8b50274348268a6235faaac446e13c31>> accessed 18 June 2025.

facilities, have led to the collapse of the healthcare system in Gaza, and the lack of medicines and medical supplies have caused further deaths and health complications.<sup>75</sup>

Israel is not only failing to provide supplies to Gaza, but it has also been actively blocking or obstructing the entry of supplies for almost two decades. Since October 2023, Israel has imposed three total blockades.<sup>76</sup> The latest blockade, starting on 2 March 2025, effectively sealed off the entire Gaza Strip for 11 weeks, depriving Palestinians in Gaza of any humanitarian aid and commercial supplies – including food, medicine, and fuel.<sup>77</sup> While the blockade remains in place, Israel has been consenting, since mid-May, to the passage of only a trickle of aid from UN agencies and international non-governmental organisations.<sup>78</sup>

Factual accounts about the current needs of the population in Gaza make it clear that Israel has failed to take measures reasonably within its power to meet the needs of the population of the Gaza Strip, and has therefore been violating its primary obligation to itself ensure that the population is adequately supplied.<sup>79</sup>

---

<sup>75</sup> Between 1 January and 31 May 2025, the World Health Organization (WHO) recorded 76 attacks on health care across the Gaza Strip, reportedly killing 38 people and injuring 65 others and affecting 23 health facilities and 24 health transport vehicles. OCHA oPt Humanitarian Situation Update #296 | Gaza Strip (n 12). For a legal analysis of attacks on health care infrastructure in North Gaza see Legal Analysis of the Destruction of Healthcare in North Gaza (n 68). See also OCHA oPt Humanitarian Situation Update #292 | Gaza Strip (n 74); 'One Month into Deadly Israeli-Imposed Blockade, Critical Medicines in Gaza Start to Run Out' (MSF, 2 April 2025) <<https://www.msf.org/critical-medicines-running-out-gaza-after-one-month-israeli-blockade>> accessed 18 June 2025.

<sup>76</sup> Two on northern Gaza and one on the entire Gaza Strip.

<sup>77</sup> 'Humanitarian Situation Update #288 | Gaza Strip' (OCHA oPt, 14 May 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-288-gaza-strip>> accessed 18 June 2025.

<sup>78</sup> 'UN Life-Saving Aid Allowed to Trickle into Gaza as Needs Mount' (UN News, 20 May 2025) <[https://news.un.org/en/story/2025/05/1163501?\\_gl=1\\*793bi0\\*\\_ga\\*NDcxNTE1OTc3LjE3MzI3Njc0NzM.\\*\\_ga\\_TK9BQL5X7Z\\*cze3NTAyMDA4NzAkzE1JGcwJHQxNzUwMjAwODcwJGo2MCRsMCRoMA](https://news.un.org/en/story/2025/05/1163501?_gl=1*793bi0*_ga*NDcxNTE1OTc3LjE3MzI3Njc0NzM.*_ga_TK9BQL5X7Z*cze3NTAyMDA4NzAkzE1JGcwJHQxNzUwMjAwODcwJGo2MCRsMCRoMA)> accessed 18 June 2025; OCHA oPt Humanitarian Situation Update #292 | Gaza Strip (n 74).

Since 27 May, the Foundation is providing limited quantities of supplies as reported below, see Section II.B.1.a below. The complete blockade on fuel, for instance, is still ongoing as of mid-June 2025, and placing life-sustaining services at severe risk. As reported by OCHA on 11 June 2025, '[s]ince 19 May, after almost 80 days of a full blockade on the entry of aid and any other supplies into Gaza, the Israeli authorities have allowed only a select number of UN agencies and international non-governmental organizations (NGOs) to resume the delivery of aid into Gaza and have authorized the entry of only very limited amounts of certain food items, nutrition supplies, some health supplies, and water purification items'. OCHA oPt Humanitarian Situation Update #296 | Gaza Strip (n 12).

<sup>79</sup> Although the scope of Israel's duties under the law of occupation is contingent upon the nature and degree of control it exercises over the territory (see Section II above), Israel is no doubt bound by the primary obligation to ensure the supply of the population owing notably to the full control it exercises over the land, sea, and air borders of Gaza and thus over the entry of supplies therein. Eg 'What Does the Law Say About the Responsibilities of the Occupying Power in the Occupied Palestinian Territory?' (ICRC, 26 July 2024) <<https://www.icrc.org/en/document/ihl-occupying-power-responsibilities-occupied-palestinian-territories>> accessed 18 June 2025; Shrinking Humanitarian Space (n 13) 24–25; 'Responsibility for Conditions of Starvation in Gaza' (IHL Centre, 5 March 2024) 3–4

As a result, Israel is under a continuous legal obligation to consent to, allow, and facilitate humanitarian aid by third parties.<sup>80</sup>

## **B. Violation of the obligation to consent to, allow, and facilitate humanitarian activities**

Throughout the total siege it imposed from 2 March until 19 May 2025, Israel received multiple offers from UN agencies and other non-governmental humanitarian organisations to provide humanitarian aid to the population in Gaza.<sup>81</sup> In early May 2025, Israel announced a series of restrictive and coercive conditions on the delivery of a very limited quantity of supplies in Gaza. This scheme does not appear to authorise any humanitarian services. As of June 2025, the only actor reportedly operating pursuant to Israeli-imposed conditions is the Foundation. UN agencies and impartial humanitarian organisations have publicly refused to participate in this Israeli-imposed delivery scheme and have, in parallel, reiterated their offers of help, outside the framework of the scheme.<sup>82</sup>

---

<<https://apidiakoniasse.cdn.triggerfish.cloud/uploads/sites/2/2024/05/5-March-2024-Responsibility-for-Conditions-of-Starvation-in-Gaza.pdf>> accessed 18 June 2025. By contrast, in a March 2025 decision, the Israeli Supreme Court found that the State of Israel is not bound by the law of occupation with respect to Gaza, and that it had fulfilled its duty to 'allow and facilitate' the delivery of humanitarian assistance. Relying on Israel's own account of its conduct, the Court cited efforts by the government to improve infrastructure at land crossings, upgrade road access, enhance coordination with humanitarian organisations, and implement deconfliction measures. *Gisha and others v Government of Israel and others* (n 68) [58]-[97].

<sup>80</sup> GC IV art 59; AP I art 69(2). See Section I.B above.

<sup>81</sup> Eg 'Briefing Note: UN-Coordinated Plan to Resume Humanitarian Aid Deliveries to Gaza' (OCHA oPt, 16 May 2025) <<https://www.ochaopt.org/content/briefing-note-un-coordinated-plan-resume-humanitarian-aid-deliveries-gaza>> accessed 18 June 2025; 'Statement from UNICEF Executive Director Catherine Russell on the Situation for Children in the Gaza Strip After Two Months of Aid Blockade', UNICEF (New York, 2 May 2025) <<https://www.unicef.org/press-releases/statement-unicef-executive-director-catherine-russell-situation-children-gaza-strip>> accessed 18 June 2025; 'Risk of Famine Across All of Gaza, New Report Says' (World Food Programme (WFP), 12 May 2025) <<https://www.wfp.org/news/risk-famine-across-all-gaza-new-report-says?>> accessed 18 June 2025; 'Health System at Breaking Point as Hostilities Further Intensify in Gaza, WHO Warns', (WHO, 22 May 2025) <<https://www.who.int/news/item/22-05-2025-health-system-at-breaking-point-as-hostilities-further-intensify--who-warns>> accessed 18 June 2025; 'Gaza: With Famine Looming, FAO Urges Immediate Access to Save Livelihoods and Food Production', (Food and Agriculture Organization of the United Nations, 12 May 2025) <<https://www.fao.org/newsroom/detail/gaza--with-famine-looming--fao-urges-immediate-access-to-save-livelihoods-and-food-production/en>> accessed 18 June 2025; 'Statement on Aid Distribution in Gaza by Tom Fletcher, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator' (OCHA oPt, 4 June 2025) <<https://www.ochaopt.org/content/statement-aid-distribution-gaza-tom-fletcher-under-secretary-general-humanitarian-affairs-and-emergency-relief>> accessed 18 June 2025.

<sup>82</sup> 'Gaza: UN Aid Teams Rejects Israel's "Deliberate Attempt to Weaponize Aid"', UN News (New York, 6 May 2025) <<https://news.un.org/en/story/2025/05/1162946>> accessed 18 June 2025. Regarding offers of humanitarian services see eg 'Statement by the Humanitarian Country Team of the Occupied Palestinian Territory - On Principled Aid in Gaza' (OCHA, 4 May 2025) <<https://www.ochaopt.org/content/statement-humanitarian-country-team-occupied-palestinian-territory-principled-aid-delivery-gaza>> accessed 18 June 2025; 'UN Relief Chief Demands Rapid, Safe, Unimpeded Aid Delivery in Gaza - Statement by Tom Fletcher, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, on Resuming Aid Delivery to Gaza' (OCHA, 16 May 2025) <<https://www.unocha.org/publications/report/occupied-palestinian-territory/un-relief-chief-demands-rapid-safe-unimpeded-aid-delivery-gaza-statement-tom>>

These circumstances raise two legal questions:

- 1) Do conditions imposed by Israel on aid delivery contradict its obligation to consent to, allow, and facilitate humanitarian aid (section II.A.1.); and
- 2) Can Israel lawfully deny consent to offers from impartial humanitarian organisations refusing to operate under such conditions (section II.A.2.)?

### **1. Conditions imposed by Israel make it impossible to meet the needs of the population**

Israel has consented to the delivery of supplies by the Foundation via the delivery scheme it has imposed.<sup>83</sup> The scheme governs the manner in which this delivery is implemented, and therefore engages Israel's obligation to 'allow and facilitate' the passage of supplies (rather than its obligation to 'consent to' their delivery). This section therefore focuses on the requirements related to this obligation. The obligation of Israel to also *consent* to humanitarian services necessary to safeguard the life and dignity of the population is addressed in the next section.

As stated above, the obligation to allow and facilitate humanitarian activities by third parties obliges Israel not to impede the passage of humanitarian supplies, equipment, and personnel, and rather to take a number of positive measures to facilitate such passage, subject to its 'right of control'.<sup>84</sup> Any conditions imposed on humanitarian operations – including with a view to preventing the diversion of aid – must be applied in good faith.<sup>85</sup>

---

fletcher-under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator-resuming-aid-delivery-gaza> accessed 18 June 2025; 'Israel and the Occupied Territories: ICRC Urges Respect and Protection of Civilians, Unhindered Flow of Humanitarian Assistance as Intolerable Suffering Mounts in Gaza', (ICRC, 29 May 2025) <<https://www.icrc.org/en/news-release/israel-and-occupied-territories-icrc-urges-protection-of-civilians-unhindered-humanitarian-assistance>> accessed 18 June 2025.

<sup>83</sup> The obligation of Israel to 'consent' to humanitarian aid is however at stake in connection to offers made outside the framework of the scheme. See Section II.B.2 above.

<sup>84</sup> See Section I.B above.

<sup>85</sup> Israel asserts that its new delivery scheme is motivated by its desire to prevent the alleged diversion of humanitarian aid to Hamas. Eg Wafaa Shurafa and Samy Magdy, 'A new Aid System in Gaza Has Started Operations, a US-Backed Group Says', *The Associated Press* (Deir Al-Balah, 26 May 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-05-26-2025-6a7285f144a3619e8239138e6883b3b6>> accessed 18 June 2025.

However, Hamas denies these allegations (David Gritten, 'Crowds Overrun US-Backed Group's New Aid Distribution Site in Gaza' *BBC News* (London, 27 May 2025) <<https://www.bbc.com/news/articles/c4gep705527o>> accessed 18 June 2025), and doubts as to their truthfulness have repeatedly been expressed by the UN, humanitarian organisations, and some US officials. Eg Claire Parker and others, 'Israel plans to control aid distribution in Gaza, use U.S. contractors' *Washington Post* (Jerusalem, 5 May 2025) <<https://www.washingtonpost.com/world/2025/05/04/israel-gaza-aid-distribution-plan/>> accessed 18 June 2025; 'Briefing to Journalists by Jonathan Whittall, Head of OCHA OPT' (OCHA oPt, 28 May 2025) <<https://www.ochaopt.org/content/briefing-journalists-jonathan-whittall-head-ocha-opt>> accessed 18 June 2025; John Bowden, 'Cindy McCain Refutes Israel's Claim that Hamas is Stealing Aid: "These People are Desperate"' *The Independent* (Washington DC, 25 May 2025)

The key consideration in assessing whether such conditions are compatible with IHL is whether the population is 'adequately supplied'.<sup>86</sup> This standard mandates that an adequate variety and quantity of aid effectively reaches the population, in an impartial manner (including without discrimination). The following paragraphs address each of these conditions.

**a) Inadequate variety and quantity of supplies**

The type of supplies necessary to meet the needs of the population pursuant to IHL include food, water, medical supplies, clothing, bedding, means of shelter, and other supplies essential to the survival of the population.<sup>87</sup> Fuel and electricity qualify as essential to the extent that they are necessary to run critical infrastructure such as hospitals or water and sanitation facilities. The obligation also includes the provision of all supplies necessary for the proper functioning of medical services.<sup>88</sup> This obligation is particularly relevant in Gaza, where at least 94 per cent of hospitals and other medical structures have been damaged or destroyed entirely owing to Israel's military operations, and need to be urgently rebuilt or repaired.<sup>89</sup> Israel thus has an obligation to allow and facilitate the passage of this variety of supplies. Providing only food items, as the

---

<<https://www.the-independent.com/news/world/americas/us-politics/cindy-mccain-hamas-israel-aid-b2757707.html>> accessed 18 June 2025.

The UN and various humanitarian organisations have highlighted the robust and elaborate distribution supervisory mechanisms they have put in place notably to avoid diversion risks. Eg 'Gaza: UN Agencies Reject Israeli Plan to Use Aid as "Bait"' (*UN News*, 9 May 2025) <<https://news.un.org/en/story/2025/05/1163071>> accessed 18 June 2025; Michelle Nichols, 'UN Humanitarian Chief Slams Aid Plan for Gaza Proposed by Israel, Backed by US' *Reuters* (London, 14 May 2025) <<https://www.reuters.com/world/un-aid-chief-slams-israels-gaza-aid-plan-cynical-sideshow-2025-05-13/>> accessed 18 June 2025. In the same vein, Israel claims that its new delivery scheme will prevent attacks on humanitarian aid convoys, but the UN asserts that looting incidents have generally halted when aid has previously flowed into Gaza. Knell and Foulkes (n 2).

<sup>86</sup> See Section I.B.2 above.

<sup>87</sup> AP I art 69.

<sup>88</sup> GC IV art 56.

<sup>89</sup> Health System at Breaking Point as Hostilities Further Intensify in Gaza, WHO Warns (n 81).

Foundation is reportedly doing, falls short of compliance with the law.<sup>90</sup> The provision of other essential supplies forms part of Israel's legal duty.<sup>91</sup>

The quantity of supplies must be sufficient to effectively meet the needs of the entire population, taking into consideration all circumstances impacting the level and nature of these needs. In Gaza, prior to the current phase of the conflict, the 18-year-long blockade that Israel imposed on the enclave, frequent military operations, and restrictions on the entry and exit of people and goods have severely undermined the living conditions of the population and resulted in 80 per cent of them being reliant on humanitarian aid.<sup>92</sup> Since October 2023, these needs have been compounded notably by the large-scale destruction of infrastructure caused by Israel's military operations, by multiple orders of displacement forcing the civilian population into ever smaller areas and, more recently, by almost three months of complete blockade.<sup>93</sup>

---

<sup>90</sup> Statements from the Foundation itself, as well as press reports indicate that the relief supplied by the Foundation consists only of food. Gaza Humanitarian Foundation (*Facebook*, 4 June 2025) <[https://www.facebook.com/permalink.php?story\\_fbid=pfbid0kEvr9vyXqEvGmhB7nATYmfxEesQoz6AWKoeGKnhCDzZ2wapLkuJdnMwxfr99iNzcl&id=61576929655481&rdid=9ddfaUyjYwpPSGsA](https://www.facebook.com/permalink.php?story_fbid=pfbid0kEvr9vyXqEvGmhB7nATYmfxEesQoz6AWKoeGKnhCDzZ2wapLkuJdnMwxfr99iNzcl&id=61576929655481&rdid=9ddfaUyjYwpPSGsA)> accessed 18 June 2025 (referring to 'food boxes'); Matt Murphy and Kevin Nguyen, 'How Controversial US-Israeli Backed Gaza Aid Plan Turned to Chaos' *BBC News* (London, 30 May 2025) <<https://www.bbc.com/news/articles/cn4g0xm2lo>> accessed 18 June 2025 ('Images and videos taken by eyewitnesses and the Israeli military showed the Foundation boxes appeared limited to canned food, pasta, rice, cooking oil and some biscuits and lentils'). OCHA reported on 5 June 2025 that the Israeli authorities have not allowed the entry of any shelter supplies. Eg 'Humanitarian Situation Update #294 | Gaza Strip' (OCHA oPt, 5 June 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-294-gaza-strip>> accessed 18 June 2025. At the start of its operations, the Foundation indicated that it would deliver only 'pre-packaged rations, hygiene kits, and medical supplies'. Mick Krever, 'A US-Backed Group Says it Will Deliver Aid to Gaza, but Humanitarian Organizations are Skeptical. Here's What we Know' *CNN* (Atlanta, 15 May 2025) <<https://edition.cnn.com/2025/05/15/middleeast/gaza-humanitarian-foundation-aid-israel-intl>> accessed 18 June 2025.

<sup>91</sup> As Gaza has been completely shut off from electricity, fuel has become essential for the operation of critical infrastructure, including for hospitals providing life-saving care, and water infrastructure in the Strip. Eg 'Explainer: Water Supply & Fuel Relationship in The Gaza Strip' (*State of Palestine WASH Cluster*, 14 November 2023) <[https://www.washcluster.net/sites/gwc.com/files/inline-files/20231114%20Water%20Supply%20and%20Fuel%20in%20Gaza%20Strip%5B7%5D\\_0.pdf](https://www.washcluster.net/sites/gwc.com/files/inline-files/20231114%20Water%20Supply%20and%20Fuel%20in%20Gaza%20Strip%5B7%5D_0.pdf)> accessed 18 June 2025; 'Gaza: Hundreds of Patients, Including Newborns, at Risk as Multiple Hospitals Run Low on Fuel' (*MSF*, 10 January 2025) <<https://msfsouthasia.org/gaza-hundreds-of-patients-including-newborns-at-risk-as-multiple-hospitals-run-low-on-fuel/>> accessed 18 June 2025.

<sup>92</sup> 'Gaza Up Close' (*Gisha*, 28 June 2023) <<https://www.unops.org/news-and-stories/news/millions-of-litres-of-fuel-reach-gaza-for-critical-humanitarian-needs>> accessed 18 June 2025; Larry Elliott, 'UN Report: 80% of Gaza Inhabitants Relied on International Aid Before War' *The Guardian* (London, 25 October 2023) <<https://www.theguardian.com/world/2023/oct/25/un-report-80-per-cent-of-gaza-inhabitants-relied-on-international-aid-before-war>> accessed 18 June 2025.

<sup>93</sup> On 5 June 2025, OCHA reported that 82 per cent of the Gaza Strip was within Israeli-militarised zones or placed under displacement orders. OCHA oPt Humanitarian Situation Update #294 | Gaza Strip (n 90). On the blockade see Ravina Shamdasani, Spokesperson for the UN High Commissioner for Human Rights, 'Gaza: Increasing Israeli "Evacuation Orders" Lead to Forcible Transfer of Palestinians' (*OHCHR*, 11 April 2025) <<https://www.ohchr.org/en/press-briefing-notes/2025/04/gaza-increasing-israeli-evacuation-orders-lead-forcible-transfer>> accessed 18 June 2025; Julia Frankel and Phil Holm, 'Gaza Aid Dries up as Israeli Blockade Enters a Third Month' *The Associated Press* (Jerusalem, 6 May 2025) <<https://apnews.com/article/gaza-aid-hunger-israel-hamas-b7429c043bc9d01717713eab21bae546>> accessed 18 June 2025.

Against the backdrop of these catastrophic levels of destitution and deprivation, the drastically limited quantity of food that Israel has reportedly been allowing into the Gaza Strip, together with the absence of other types of supplies, is far from meeting the requisite legal standard.<sup>94</sup> According to various UN agencies, the ICRC, and other impartial humanitarian organisations, as well as the IPC, such a limited quantity of food falls short of the required amount to adequately meet the nutritional needs of the population.<sup>95</sup> Restricting the number of distribution sites to only four (or less) for the entire territory of the Gaza Strip also significantly reduces de facto the quantity of aid that can be distributed to the population compared to previous levels, when aid was distributed from hundreds of distribution sites.<sup>96</sup> The restrictive conditions imposed by Israel on the amount of supplies it allows to be delivered to Palestinians in Gaza are thereby in breach of its legal obligations.

---

<sup>94</sup> When announcing the series of conditions it would impose in connection with the new delivery scheme, Israel indicated that it would allow the passage of only '60 trucks' daily into the Gaza Strip, which would be about 10 per cent of the number of trucks previously entering Gaza daily. Parker and others (n 85); Eileen Travers, 'How Aid is (and is not) Getting into Gaza' *UN News* (New York, September 2024) <<https://news.un.org/en/story/2024/09/1154401>> accessed 18 June 2025. The Foundation announced that it would provide relief aimed to benefit only '1.2 million people', which represents less than 60 per cent of the population in Gaza. Eg 'What is the Gaza Humanitarian Foundation, and Why has it Been Criticised?' *Al Jazeera* (Doha, 20 May 2025) <<https://www.aljazeera.com/news/2025/5/20/what-is-the-gaza-humanitarian-foundation-and-why-has-it-been-criticised>> accessed 18 June 2025. The BBC reported that a Foundation 'spokesperson said on Friday [30 May], its fourth day of operations, that it had distributed two million meals. The BBC has not been able to verify this figure, which would be less than one meal per Gazan over the course of four days'. Murphy and Nguyen (n 90).

<sup>95</sup> According to the Head of OCHA oPt, '[t]he new distribution model cannot possibly meet Gaza's needs'. Briefing to Journalists by Jonathan Whittall, Head of OCHA OPT (n 85); Knell and Foulkes (n 2); Parker and others (n 85).

On 25 May 2025, the head of the UN's WFP warned that the amount of aid that had been allowed into Gaza in the previous days was only a 'drop in the bucket' of what was needed in the territory to reverse the catastrophic levels of hunger, amid significant shortages of basic foods and skyrocketing prices. See 'Fresh bread returns for the first time in over two months as limited supplies reach bakeries overnight' (*WFP*, 22 May 2025) <<https://www.wfp.org/news/fresh-bread-returns-first-time-over-two-months-limited-supplies-reach-bakeries-overnight>>.

According to the ICRC, 'the small amount of assistance currently entering Gaza is nowhere near enough to meet the needs, and the desperation of civilians to reach any of this assistance is growing'. 'Israel and the Occupied Territories: Red Cross Field Hospital Receives Unprecedented Influx of War Wounded in Gaza' (*ICRC*, 2 June 2025) <<https://www.icrc.org/en/statement/israel-and-occupied-territories-red-cross-field-hospital-unprecedented-influx-war-wounded-gaza>> accessed 18 June 2025.

According to the IPC, '[t]he plan announced on 5 May by Israeli authorities for delivering food and non-food items across the governorates is estimated to be highly insufficient to meet the population's essential needs for food, water, shelter and medicine'. Gaza Strip: IPC Acute Food Insecurity and Acute Malnutrition Special Snapshot (n 73); Keaten, Shurafa, and El Deeb (n 8).

<sup>96</sup> As of 11 June 2025, it was reported that only three sites were (intermittently) operating. See Wafaa Shurafa and Samy Magdy, '36 Palestinians Killed Trying to Obtain Desperately Needed Aid in Gaza, Officials Say' *The Associated Press* (Deir Al-Balah, 10 June 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-hostages-aid-06-10-2025-fe6c6c36e302ee1766f1b0f2a7d5bc19>> accessed 18 June 2025. Benedict Garman, Matt Murphy, and Merlyn Thomas, 'Construction Sites Appear in Gaza Ahead of Israeli-US Aid Plan Rejected by UN, Images Show' *BBC News* (London, 15 May 2025) <<https://www.bbc.com/news/articles/ce82ene10p0o>> accessed 18 June 2025.

### **b) Not effectively reaching all those in need**

Even if the adequate variety and quantity of supplies would be allowed into Gaza, it must effectively reach all those in need. When Israel imposes conditions on the delivery of aid that prevent part of the population from accessing it, it fails to meet its obligation to 'allow and facilitate' humanitarian aid.

The planning and implementation of aid distribution modalities (the number, location of distribution sites, and the way they are run, the methods for and actors involved in the selection and screening of beneficiaries, the practicalities imposed upon them to retrieve parcels, etc.) have a direct impact on the population's access to the aid they need.

Imposing on the population to travel to a small number of distribution centres (rather than bringing the aid close to the population by setting up enough distribution sites, as was the case under the UN model of aid distribution) necessarily creates obstacles that will make it challenging or impossible for part of the population to access aid. It is evident that distributing aid from no more than four sites across the entire Gaza Strip effectively compels part of the population to travel long distances to access aid from their place of shelter.<sup>97</sup> Undertaking such travel is often not feasible for individuals with limited mobility or heightened vulnerability, including older adults, people who are injured or ill, persons with disabilities, pregnant and postpartum women, unaccompanied children, as well as others with specific needs. Even for those who are physically able, the travel required may be extremely challenging, owing to security risks associated with Israel's bombardments and military operations, lack of financial means to pay for transport, or the many displacement orders issued by Israel that severely restrict movement within the Strip.<sup>98</sup> Since the start of their operation, access to the distribution sites has also proven extremely dangerous, with hundreds of Palestinians having been killed and well over a thousand injured trying to reach them.<sup>99</sup> All Palestinians unable to reach these distribution hubs are entirely deprived of aid.

In addition, the conditions for the retrieving of relief consignments by beneficiaries must be practically feasible: imposing on a single person per household to pick up, on foot, a 20

---

<sup>97</sup> As of 11 June 2025, only three hubs were reportedly operating, and only intermittently. See Shurafa and Magdy (n 96).

<sup>98</sup> As reported by Al Jazeera, '[t]o reach the hubs, many Palestinians must walk long distances and cross Israeli military lines, further endangering their lives'. Belen Fernandez, 'In Gaza, Aid Kills', *Al Jazeera* (Doha, 2 June 2025) <<https://www.aljazeera.com/opinions/2025/6/2/in-gaza-aid-kills>> accessed 18 June 2025. Some Palestinians do not have the financial means to travel to the distribution sites, as reported by Knell and Foulkes (n 1). On the restriction of movements within the Strip see eg Al Jazeera Staff, 'Israel Has Turned 70% of Gaza into No-Go Zones, in Maps' *Al Jazeera* (Doha, 6 May 2025) <<https://www.aljazeera.com/news/2025/5/6/israel-has-turned-70-of-gaza-into-no-go-zones-in-maps>> accessed 18 June 2025; '600 Days into War, Israel's Mass Displacement Campaign is Entirely Erasing Gaza, Warns Oxfam' (*Oxfam America*, 29 May 2025) <<https://www.oxfamamerica.org/press/600-days-into-war-israels-mass-displacement-campaign-is-entirely-erasing-gaza-warns-oxfam/>> accessed 18 June 2025.

<sup>99</sup> See Section II.C.3 below.

kg parcel and carrying it back to their shelter presents significant challenges even for individuals without mobility or health concerns, and may be unmanageable for those with additional support needs.<sup>100</sup> Overall, the practical conditions on the distribution and retrieval of relief consignments imposed by Israel, and currently implemented by the Foundation, is leaving many Palestinians in Gaza unable to access the aid they need.

Beyond the conditions imposed by Israel, the reported operating modalities of the Foundation analysed below manifestly do not allow all those in need to access relief, which reinforces Israel's duty to consent to other offers from experienced impartial humanitarian organisations.<sup>101</sup>

### c) **Discriminatory conditions**

Israel must ensure that all those in need are adequately supplied, in an impartial manner, without discrimination.<sup>102</sup> This standard is binding upon Israel, even when it has consented to the delivery of relief by a third entity.<sup>103</sup> The principle of non-discrimination allows for differentiated treatment, but only based on medical or humanitarian needs.<sup>104</sup> On the contrary, differentiating between members of the population solely based on their presence, or not, in a specific area would not be justified under IHL. In this regard as well, restricting the distribution of aid from hubs located exclusively in southern and central Gaza, thereby de facto excluding northern Gaza, contradicts this principle.<sup>105</sup> The deliberate choice not to allow distribution to the hundreds of thousands of civilians located in northern Gaza manifestly constitutes discrimination in contravention of IHL.<sup>106</sup> Excluding northern Gaza from the aid distribution network cannot possibly be justified as a lawful restriction on the movements of humanitarian personnel both because there is clearly no 'imperative military necessity' to do so, and because it is not a temporary measure.<sup>107</sup>

---

<sup>100</sup> Knell and Foulkes (n 2); Parker and others (n 85). These concerns have been expressed by many humanitarian organisations. Eg Gaza: UN Agencies Reject Israeli Plan to Use Aid as "Bait" (n 85).

<sup>101</sup> See Section II.B.2 above.

<sup>102</sup> See Section I.B.1 above.

<sup>103</sup> *ibid.*

<sup>104</sup> *ibid.*

<sup>105</sup> Agencies and TOI Staff, 'UN, Aid Groups Hit Out at Israeli Plans for Resuming Gaza Aid Distribution', *The Times of Israel* (Jerusalem, 3 May 2025) <<https://www.timesofisrael.com/un-aid-groups-hit-out-at-israeli-plans-for-resuming-gaza-aid-distribution/>> accessed 18 June 2025 ('The distribution hubs would all be south of the Netzarim Corridor that isolates northern Gaza from the rest of the territory'); Sam Mednick and Lee Keath, 'Groups Fear Israeli Proposal for Controlling Aid in Gaza Will Forcibly Displace People', *The Associated Press* (Tel Aviv, 3 May 2025) <<https://apnews.com/article/gaza-aid-displacement-humanitarian-crisis-ddcd504e37edeb52ef70772a70e76941>> accessed 18 June 2025. According to some other reports, the hubs would only be located in southern Gaza. Parker and others (n 85); Garman, Murphy, and Thomas (n 96).

<sup>106</sup> On the forcible displacement likely to result from these modalities see Section II.C.2 below.

<sup>107</sup> See Section I.B.2 above.

A crucial aspect of (non-)compliance with the principles of non-discrimination and impartiality is the criteria and process applied for the selection of beneficiaries. Aid providers must develop rigorous eligibility criteria and oversight mechanisms to ensure that aid is delivered to *all* those who are entitled to it under IHL – i.e., civilians<sup>108</sup> in need of humanitarian aid<sup>109</sup> – in a non-discriminatory and impartial manner, and only to such persons. Screening or vetting beneficiaries along criteria that would exclude those entitled to humanitarian aid under IHL would be in violation of IHL.<sup>110</sup> In this regard, reports indicating that the delivery of aid in Gaza would be conditioned upon the vetting of beneficiaries by Israel raise concerns.<sup>111</sup> The entire population of Gaza is in desperate need of essential supplies.<sup>112</sup> Accordingly, every civilian in Gaza is entitled to humanitarian relief under IHL. If Israel were to vet beneficiaries with a view to excluding civilians on the basis of their political affiliation, family ties, security, or any other grounds, it would violate IHL, including the principles of non-discrimination and impartiality. In a similar vein, mechanisms to verify compliance with legitimate vetting criteria cannot be so onerous as to result, de facto, in barring civilians from accessing relief. If it cannot be established that an individual belongs to the armed forces of the adversary, this person is entitled to humanitarian relief under IHL. Excluding them from relief would violate IHL. Finally, the vetting of beneficiaries would implicate the sharing of their identity and other sensitive personal information with Israel. This would trigger legitimate fears of misuse for hostile purposes – including violence, intimidation, arbitrary arrest and detention, etc. – and corresponding protection concerns.

Overall, reports on the conditions contemplated or already imposed by Israel on aid delivery in Gaza indicate that they result (or would result) in the population not being able to effectively access aid of adequate variety and quantity, without discrimination and in an impartial manner. In other words, under the Israeli-imposed delivery scheme, the population in Gaza continues to be 'inadequately supplied', per the standards of

---

<sup>108</sup> A civilian under IHL is anyone who is not a member of the armed forces of a party to the conflict. More specifically, in IAC, a civilian is 'any person who does not belong to one of the categories of persons referred to in Article 4A (1), (2), (3) and (6) of the Third Convention and in Article (1), (2), (3) and (6) of the Third Convention and in Article 43 of [AP I]'. 1987 Commentary to AP I art 68 para 2775.

<sup>109</sup> In addition to civilians, persons no longer taking part in hostilities, such as sick, wounded or detained fighters, may also be entitled to humanitarian aid pursuant to IHL. Even though IHL rules governing the provision of supplies and relief actions are expressly limited to civilians (persons protected by GC IV rules are exclusively civilians, as is clear from GC IV art 4; and the rules relative to humanitarian relief in AP I are contained in Part IV – Section II entitled 'Relief in favour of the civilian population'), the IHL obligation of 'humane treatment' benefitting all those who do not or no longer take part in hostilities (e.g., in common art 3) implies the provision of (relief) supplies necessary to satisfy this standard, including to save lives and ensure human dignity.

<sup>110</sup> 'Screening of Final Beneficiaries of Humanitarian Aid' (*IHL Centre*, 7 September 2021) <<https://www.diakonia.se/ihl/news/fact-sheet-screening-final-beneficiaries-humanitarian-aid/>> accessed 18 June 2025.

<sup>111</sup> Keaten, Shurafa, and El Deeb (n 8).

<sup>112</sup> See Section II.A above.

international law. When imposing such conditions, irrespective of their motives, Israel continues to be in breach of its obligation to 'allow and facilitate' the rapid and unimpeded passage of humanitarian aid.

## **2. Unlawful denial of consent to other offers from impartial humanitarian organisations**

UN agencies and other humanitarian organisations with proven track records of conducting impartial humanitarian activities in Gaza in an effective, safe, and dignified manner have refused to take part in the Israeli-imposed delivery scheme, as they consider that it would violate IHL and run counter to humanitarian principles. In parallel, they have reiterated their offers to conduct humanitarian activities according to previous modalities.<sup>113</sup>

Israel has continued to deny its consent to such activities, except for the delivery of a very limited type and quantity of supplies.<sup>114</sup> In particular, the blanket denial of authorisation for any type of humanitarian services means that the needs of the population cannot be met per the applicable legal standards. After 20 months of high-intensity and large-scale bombardments and other military operations by the Israeli military, local services including in the field of health, water and sanitation, electricity, shelter, and education have collapsed.<sup>115</sup> Humanitarian services, in addition to supplies, are necessary, notably to rebuild or repair infrastructure and to alleviate the shortage of local personnel (who have been killed, injured, displaced, or detained) needed for the proper functioning of these services.

Meanwhile, beyond the unlawful conditions imposed by Israel on the delivery of supplies, the operating modalities of the sole actor authorised by Israel to deliver supplies in Gaza as of June 2025 – the Foundation – clearly do not allow all those in need in Gaza to access relief. Reports indicate that severe (and deadly) shortcomings in the planning and implementation of the distributions run by the Foundation have left many Palestinians in Gaza unable to access supplies. For instance, the fact that parcels are distributed on a 'first come, first served basis', with insufficient stocks, has resulted in many having to return from the distribution sites empty-handed.<sup>116</sup> The lack of any criteria or process regulating

---

<sup>113</sup> See above note 82.

<sup>114</sup> See above note 78 (referring to the trickle of aid that has been let in).

<sup>115</sup> Eg Health System at Breaking Point as Hostilities Further Intensify in Gaza, WHO Warns (n 84); 'Water is Being Used as a Weapon of War in Gaza' (MSF, 25 March 2025) <<https://www.doctorswithoutborders.org/latest/water-being-used-weapon-war-gaza>> accessed 18 June 2025; Paula Hancocks and others, 'Education in Ruins: Gaza's Children on Losing their Right to Learn' CNN (Atlanta, 29 March 2025) <<https://www.cnn.com/interactive/2025/03/middleeast/gaza-education-children-schools/>> accessed 18 June 2025.

<sup>116</sup> As reported by the BBC, '[t]hose who arrive early have a better chance of securing a spot at the front of the line—and are therefore more likely to receive food. Many who come at the official time announced by the Gaza Humanitarian Foundation often find that no aid remains by the time they arrive'. Rushdi Abualouf, 'Why

who can retrieve relief parcels at the sites has reportedly resulted in relief not being distributed based on needs, and being diverted by traders.<sup>117</sup> The recurrent closing of distribution sites – from among the four Israel has authorised – further limits the opportunity for Palestinians in Gaza to access life-saving relief.<sup>118</sup> The unpredictability as to the opening days and times of the distribution sites, owing to unreliable and confusing communication, is also a significant barrier to effective access to relief, especially considering the long distances many have to travel to get to one of the distribution sites.<sup>119</sup> The killing of hundreds of persons at distribution sites in the first few weeks of operation of the Foundation means that approaching the sites has become a life-threatening danger, further preventing Palestinians in Gaza from accessing relief.<sup>120</sup> The threats to deprive

---

Do People Arrive Hours Before the Aid Point Opens? *BBC News* (Cairo, 3 June 2025)

<<https://www.bbc.com/news/live/cvg5vyp33j1t?post=asset%3A86148d30-7537-4995-8d57-cb37a5c6d6c1#post>> accessed 18 June 2025. See also Barbara Plett Usher, 'Certain Amount of Chaos is Built into New Aid Distribution System' *BBC News* (Jerusalem, 3 June 2025)

<<https://www.bbc.com/news/live/cvg5vyp33j1t?post=asset%3Aa9b8f676-23b0-4ced-b3cd-48e9e4e4e172#post>> accessed 18 June 2025; Yahya Abou-Ghazala and others, "'Death and Hunger": Videos, Expert Analysis and Witnesses Point to Israeli Gunfire in Gaza Aid Site Shooting' *CNN* (Atlanta, 5 June 2025) <<https://edition.cnn.com/2025/06/04/middleeast/israel-military-gaza-aid-shooting-intl-invs>> accessed 18 June 2025.

<sup>117</sup> Callum Sutherland, 'How Closures at Food Distribution Hubs Are Impacting Gazans' *TIME* (New York, 7 June 2025) <<https://time.com/7291862/gaza-israel-aid-shooting/>> accessed 18 June 2025.

<sup>118</sup> In the first weeks of operation of the Foundation, the distribution sites were regularly closed. Eg 'US-Backed GHF Says Gaza Aid Sites Remain Shut as Israeli Attacks Kill 42' *Al Jazeera* (Doha, 6 June 2025) <<https://www.aljazeera.com/news/2025/6/6/us-backed-ghf-says-gaza-aid-sites-remain-shut-as-israeli-attacks-kill-22>> accessed 18 June 2025; Emanuel Fabian and others, 'GHF Resumes Gaza Aid Distribution After Temporarily Closing Sites to Boost Security' *The Times of Israel* (Jerusalem, 5 June 2025) <<https://www.timesofisrael.com/ghf-resumes-gaza-aid-distribution-after-temporarily-closing-sites-to-boost-security/>> accessed 18 June 2025. On the impact of the regular closure of the sites for Palestinians in need see Sutherland (n 117).

<sup>119</sup> As of June 2025, the Foundation appeared to be communicating on these aspects mainly via online platforms (notably its Facebook page), which are not a reliable or effective way to communicate with the population, in particular when access to internet and electricity is severely restricted, and many do not have the capacity or ability to connect to these platforms. The content of Foundation's communication is also confusing and unpredictable, with multiple contradictory statements issued over the course of a day. See for instance the communications issued on the Foundation's Facebook page in the first days of June 2025. Gaza Humanitarian Foundation (*Facebook*) <<https://www.facebook.com/people/Gaza-Humanitarian-Foundation/61576929655481/>> accessed 18 June 2025.

Information as critical as the opening of a site, or prohibition to access certain routes leading to a distribution site, have sometimes been communicated at night and at the very last minute. For instance, on 3 June, the Foundation issued a statement at 4:05 am warning the population not to use the route leading to the distribution site of Tal-Sultan (region of southern Gaza) before 5:00 am. See Gaza Humanitarian Foundation (*Facebook*, 2 June 2025)

<[https://www.facebook.com/permalink.php?story\\_fbid=pfbid0YPzqkPLEE3dCkSGJCTX5h4bfpT3HzohzJFEF6rjkm6SDqTgot1cg7mdhalPi53Qql&id=61576929655481&rdid=46vRghXgFcLmpSUR#](https://www.facebook.com/permalink.php?story_fbid=pfbid0YPzqkPLEE3dCkSGJCTX5h4bfpT3HzohzJFEF6rjkm6SDqTgot1cg7mdhalPi53Qql&id=61576929655481&rdid=46vRghXgFcLmpSUR#)> accessed 18 June 2025. See also Abou-Ghazala and others (n 116); Murphy and Nguyen (n 90).

<sup>120</sup> See Section II.C.3 above. As reported by *TIME* on 7 June 2025, the deadly incidents that took place at and around the distribution hubs in the first days of their operations have discouraged civilians from going to these hubs. Sutherland (n 117) ('Jehad Miri, a journalist from Tel al-Hawa in Gaza City who has been displaced over a dozen times, says that despite having not eaten properly for weeks, he has not gone to the [Foundation's] aid sites. "Going to those aid centers feels like walking into death," he told *TIME* from Deir al-Balah. "Just two days ago, a close friend of mine was killed"').

Palestinians in Gaza of relief as punishment for lack of compliance by others further confirm that the standard applied by the Foundation is not to ensure the delivery of relief to all those in need.<sup>121</sup> Overall, the operating modalities of the Foundation, as reported in June 2025, clearly fail to meet the needs of the population in a manner compatible with Israel's legal obligations.

As highlighted above, where the population is inadequately supplied, and provided that humanitarian activities are offered exclusively for humanitarian purposes and in line with the principle of impartiality, the occupying power is under an unqualified duty to agree to these external offers.<sup>122</sup> Given that Israel is not itself meeting the needs of the population in Gaza, it must consent to external offers of humanitarian activities, and then allow and facilitate such activities along the rules laid out above.<sup>123</sup> The only valid ground for denying such consent would be if the population was adequately supplied, in an impartial manner, through the distribution system put in place by Israel in May 2025 and implemented by the Foundation as of end of May 2025, and only *when* this would effectively be the case. Because of both the overly restrictive conditions imposed by Israel on the delivery of supplies, the absence of consent to any humanitarian services, and the ineffective operating modalities of the Foundation as currently reported, the Israeli-imposed delivery scheme comes nowhere close to satisfying this condition. Therefore, Israel remains under an obligation to consent to offers of humanitarian activities by impartial humanitarian organisations that can effectively satisfy this standard. In other words, consenting to the delivery of supplies by the Foundation alone does not relieve Israel of its obligation to consent to other offers of humanitarian activities. Denying consent to such offers while the population remains inadequately supplied is a continued violation of IHL.

Israel should respect and enable impartial humanitarian organisations to operate according to their mandate, principles, and working modalities, and trust their assessment as to the most appropriate modalities to effectively deliver aid to all those in need, without discrimination and impartially – per the requirements of the letter and spirit of IHL.<sup>124</sup> Israel is further bound to respect and enable the work of organisations whose activities are mandated by international law, such as the ICRC or UN agencies.<sup>125</sup>

In addition to obligations derived from IHL, Israel's legal obligation to ensure that the population of Gaza is adequately supplied also emanates from orders on provisional measures issued by the ICJ in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa*

---

<sup>121</sup> 'If anyone tries to take more than one box or steal boxes from others the site will be shut down. And if people try to break into the site it will be shut down too'. Gaza Humanitarian Foundation (2 June 2025) (n 119).

<sup>122</sup> See Section I.B.1 above.

<sup>123</sup> See Section I.B.2 above.

<sup>124</sup> ICRC Q&A (n 14) 374.

<sup>125</sup> See Section I.B.1 above.

*v. Israel*). Amongst other things, the ICJ ordered in March 2024 that 'in view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation, Israel shall: (a) take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza [...].'<sup>126</sup> Israel has evidently also been failing to comply with this obligation.

### **C. Other violations**

The conditions imposed by Israel on aid delivery in Gaza must also conform to Israel's other obligations under international law.<sup>127</sup> Public reports about certain modalities contemplated or already applied by Israel indicate the commission of other violations of IHL, including – but not limited to – starvation of the civilian population as a method of warfare, forcible displacement, and failure to respect and protect civilians.

#### **1. Starvation of the civilian population**

Imposing overly restrictive conditions on the delivery of aid when resources are inadequate can also constitute a breach of the prohibition of using starvation of the civilian population as a method of warfare.<sup>128</sup> This IHL rule prohibits parties to an armed conflict from deliberately depriving civilians of food so as to cause them to suffer hunger.<sup>129</sup> The intentional starvation of civilians as a method of warfare can constitute a war crime, including if starvation is caused by wilfully impeding relief supplies.<sup>130</sup>

It is established that Palestinians in Gaza are starving. On 12 May 2025, the IPC reported that the entire population was facing high levels of acute food insecurity, with half a million people (one in five) facing starvation. Three quarters of Gaza's population were at 'Emergency' or 'Catastrophic' food deprivation, the worst two levels of IPC's five-level

---

<sup>126</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* (28 March 2024 Order) General List No 192 [2024] ICJ 4.

<sup>127</sup> See Section I.B.2 above.

<sup>128</sup> AP I art 54(1); CIHL r 53.

<sup>129</sup> AP I art 54(1); 1987 Commentary to AP I art 54 para 2089. While the deprivation of food must be 'deliberate', it has been convincingly argued that IHL does not require an intention to specifically starve the civilian population. Eg Sassoli (n 12) para 10.230; Tom Dannenbaum, 'Encirclement, Deprivation, and Humanity: Revising the San Remo Manual Provisions on Blockade' (2021) 97 Intl L Studies 307, 370.

<sup>130</sup> Rome Statute of the ICC (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 (ICC Statute) art 8(2)(b)(xxv), which applies in case of IACs. As per an amendment to the ICC Statute art 8 (6 December 2019), starvation of a civilian population is a war crime if committed during NIACs, however the State of Palestine has not acceded to the amendment to the ICC Statute granting the ICC jurisdiction over such crimes.

scale of food insecurity and nutritional deprivation.<sup>131</sup> This situation is the result of a multitude of deliberate acts by Israel to block or impede the delivery of supplies in Gaza.<sup>132</sup> The restrictive and coercive measures imposed by Israel since May 2025 under its new aid delivery scheme have worsened the conditions of starvation inflicted on the population: as highlighted above, the limited quantity of food allowed into Gaza falls short of the quantity required to meet the nutritional needs of the population, and the prohibitive conditions to reach the distribution sites de facto exclude large parts of the population from access to any food supplies.

It is also noteworthy that, on 21 November 2024, the International Criminal Court (ICC) issued arrest warrants for Benjamin Netanyahu, Prime Minister of Israel, and Yoav Gallant, Minister of Defence of Israel (at the time of the alleged conduct), for war crimes including the crime of starvation of civilians as a method of warfare.<sup>133</sup> The issuing of these arrest warrants implies that the Pre-Trial Chamber of the ICC 'found reasonable grounds to believe that Mr Netanyahu and Mr Gallant bear criminal responsibility for the war crime of starvation as a method of warfare'.<sup>134</sup>

## 2. Forcible displacement

In occupied territory, IHL strictly forbids the forcible transfer of the civilian population, in whole or in part.<sup>135</sup> Displacement is forcible if imposed by physical force or coercion, such as that caused by fear of violence, duress, or by taking advantage of a coercive

---

<sup>131</sup> See n 73. See also 'People in Gaza Starving, Sick and Dying as Aid Blockade Continues' (*WHO*, 12 May 2025) <<https://www.who.int/news/item/12-05-2025-people-in-gaza-starving--sick-and-dying-as-aid-blockade-continues>> accessed 18 June 2025. In early June 2025, the WFP reported that the population's 'daily food intake had fallen well below "survival" level'. See 'In Gaza, Daily Food Intake Has Fallen Well Below "Survival" Level' *UN News* (New York, 5 June 2025) <<https://news.un.org/en/story/2025/06/1164076>> accessed 18 June 2025. See also 'The Gaza Starvation Experiment' (*International Crisis Group*, 6 June 2025) <<https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine/gaza-starvation-experiment>> accessed 18 June 2025.

<sup>132</sup> Including an 18-year blockade, which has been tightened since October 2023, repeated denial of consent to offers by humanitarian organisations to deliver aid, multiple forms of obstructions on the passage of supplies, etc. See *Responsibility for Conditions of Starvation in Gaza* (n 79).

<sup>133</sup> And for the crimes against humanity of murder, persecution, and other inhumane acts. The same day, the Court also issued an arrest warrant for the former head of Hamas' military wing, Mohammed Deif. See 'Situation in the State of Palestine: ICC Pre-Trial Chamber I Rejects the State of Israel's Challenges to Jurisdiction and Issues Warrants of Arrest for Benjamin Netanyahu and Yoav Gallant' *ICC* (The Hague, 21 November 2024) <<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>> accessed 18 June 2025; 'Situation in the State of Palestine: ICC Pre-Trial Chamber I Issues Warrant of Arrest for Mohammed Diab Ibrahim Al-Masri (Deif)' (*ICC*, 21 November 2024) <<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-issues-warrant-arrest-mohammed-diab-ibrahim>> accessed 18 June 2025.

<sup>134</sup> *ibid.*

<sup>135</sup> GC IV art 49(1); CIHL r 129. Transfer refers to movement within an occupied territory. IHL also prohibits deportation, which refers to movement across an international border.

environment.<sup>136</sup> Coercive circumstances mean that the person has no real choice other than to leave. The determination of whether a civilian leaves voluntarily or forcibly has to be made on a case-by-case basis, taking into account all relevant contextual circumstances, including living conditions imposed by the parties to the conflict.<sup>137</sup>

The only exception to this general prohibition of forcible displacement envisaged by IHL is if the security of the civilians involved or imperative military reasons require the evacuation of civilians.<sup>138</sup> In such case, their displacement is permitted only temporarily, for as long as the conditions warranting it exist. Courts have set a very high threshold for accepting 'imperative military reasons' as a justification for forcible displacement: the displacement can be justified only in case of actual, rather than hypothetical, military threats.<sup>139</sup> If forcible displacement cannot be connected to a specific military threat, it cannot be justified on the basis of 'imperative military reasons'.<sup>140</sup> Importantly, courts have also clarified that a party to the conflict cannot justify forcible displacement on the basis of a dire humanitarian situation that it has itself created.<sup>141</sup>

The forcible transfer of the civilian population in occupied territory (unless the security of the civilians involved or imperative military reasons demand their temporary evacuation) constitutes a grave breach of the Geneva Conventions and may thus implicate the persons responsible in the commission of a war crime, including under the ICC Statute.<sup>142</sup>

In the case of Gaza, the modalities imposed by Israel concerning the location of the aid distribution hubs raises grave concerns related to forced displacement. As of June 2025, Israel has allowed aid distribution only through four hubs, all located in southern and central Gaza.<sup>143</sup> This will force many Palestinians in other parts of the enclave (especially

---

<sup>136</sup> *Prosecutor v Krnojeac* (Trial Judgment) IT-97-25-T, T Ch II (15 March 2002) [475]; *Prosecutor v Stakic* (Appeals Judgment) IT-97-24-A (22 March 2006) [281]; Elements of Crimes (adopted in September 2002, amended in June 2010) ICC-ASP/1/2 and Corr.1 and ICC Pub RC/9/11 (Elements of Crimes) art 7(1)(d).

<sup>137</sup> *Prosecutor v Naletilic and Martinovic* (Trial Judgment) IT-98-34, T Ch I (31 March 2003) [519].

<sup>138</sup> GC IV art 49(2). See CIHL r 129.

<sup>139</sup> Emma Brandon, 'Grave Breaches and Justifications: The War Crime of Forcible Transfer or Deportation of Civilians and the Exception for Evacuations for Imperative Military Reasons' (2019) 6(2) *Oslo L Rev* 107, 111-115.

<sup>140</sup> For instance, in the *Krstic* case, the ICTY ruled that displacement planned in advance cannot be taken in response to an imperative military need, and therefore does not fall under the 'imperative military reasons' exception. *Prosecutor v Krstic* (Trial Judgment) ICTY-98-33-T (2 August 2001) [527].

<sup>141</sup> For instance, in the *Stakic* case, the ICTY ruled that the dire humanitarian situation in Prijedor could not justify the forcible displacement of civilians from this town because the situation was created by the Bosnian Serb forces' destruction and confiscation of objects necessary for survival from the civilian population. *Prosecutor v Stakic* (n 136) [273].

<sup>142</sup> GC IV art 147; AP I art 85(4)(a). '[T]he deportation or transfer [by the Occupying Power] of all or parts of the population of the occupied territory within or outside this territory' constitutes a war crime in IACs, per the Rome Statute. ICC Statute (n 130) art 8(2)(b)(viii).

<sup>143</sup> Three distribution sites are located in the Rafah governorate, and one in the Deir al-Balah governorate, south of the Netzarim Corridor. See n 9 above. In fact, as of 16 June 2025, only three hubs were reportedly operating, and only intermittently. See Shurafa and Magdy (n 96).

in the North) to relocate to the proximity of these hubs to avoid the logistical challenges of travelling long distances from their current place of shelter. It is therefore to be expected that the Israeli-designated distribution hubs will result in the displacement of part of Gaza's population.<sup>144</sup> Such displacement would constitute a violation of IHL by Israel (and could possibly implicate the individuals responsible in the commission of a war crime) if it is 'forcible', unless it can be justified by one of the above-mentioned exceptions.

Palestinians relocating closer to the distribution hubs would do so in order to access life-saving humanitarian aid. The context of their decision to relocate is the devastating effects of hostilities including Israel's attacks and extensive destruction of residential buildings and shelters, hospitals, schools, and other critical civilian infrastructure, creating conditions in much of Gaza in which life cannot be sustained. This context is also characterised by 11 weeks of total siege depriving Palestinians in Gaza of food, water, medicine, electricity, and fuel, leading to the entire population being 'acutely food insecure' and being projected to face 'catastrophic levels of hunger'.<sup>145</sup> This coercive environment, combined with the security and practical challenges of having to regularly travel to and from these hubs, leaves no other choice to many Palestinians but to relocate to the vicinity of the distribution hubs.<sup>146</sup> Staying in areas excluded from the distribution of humanitarian aid would mean facing starvation, illness, and death. In these circumstances, leaving these areas to move closer to the distribution sites is everything but a real choice.

Such forcible displacement cannot possibly be justified for 'imperative military reasons' as it is not connected to any specific military threat. In any case, pursuant to the standards established in the jurisprudence mentioned above, Israel cannot justify forcible displacement from areas excluded from aid distribution when it itself is responsible for the life-threatening conditions pertaining in those areas.

Rather, it can be inferred from Israel's policies and practices as well as statements by Israeli officials throughout the hostilities that the exclusion of northern Gaza from the aid distribution network may be intended to forcibly displace the population, or to facilitate the ethnic cleansing of the area. Throughout the hostilities, Israel has indeed issued multiple displacement orders and calls for Palestinians to leave northern Gaza while also

---

<sup>144</sup> Concerns over forced displacement resulting from this scheme have also been shared by a number of humanitarian actors. The UN has refused to participate in the Israeli-imposed delivery scheme, warning that it 'violates humanitarian principles by using aid as a tool in Israel's broader efforts to depopulate areas of Gaza'. Briefing to Journalists: Jonathan Whittall, Head of OCHA OPT (n 85). See also Humanitarian Country Team, 'Statement by the Humanitarian Country Team of the Occupied Palestinian Territory – on Gaza (OCHA oPt, 28 May 2025) <<https://www.ochaopt.org/content/statement-humanitarian-country-team-occupied-palestinian-territory-gaza>> accessed 18 June 2025; Sam Mednick and Lee Keath (n 105); Parker and others (n 85).

<sup>145</sup> Gaza Strip: Acute Food Insecurity and Acute Malnutrition Special Snapshot (n 73).

<sup>146</sup> See Section II.B.1.b above.

taking coercive actions that, taken together, suggest an intent to 'cleanse' the area.<sup>147</sup> The Israeli-imposed delivery scheme forms part of 'Operation Gideon's Chariots', which entails a plan to displace the population from about 70 per cent of the Gaza Strip, confining them to small designated areas in the South of the enclave.<sup>148</sup> Israeli officials have also expressed the goal of effectively deporting the population of Gaza through so-called 'voluntary emigration', again reinforcing concerns regarding ethnic cleansing, which may entail the commission of crimes against humanity.<sup>149</sup>

---

<sup>147</sup> For an overview of areas that are currently subject to directives by the Israeli military for civilians to relocate, see eg 'Reported Impact Snapshot | Gaza Strip (18 June 2025)' (*OCHA oPt*, 18 June 2025) <<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-18-june-2025>> accessed 18 June 2025; 'UNRWA Situation Report #175 on the Humanitarian Crisis in the Gaza Strip and the West Bank, Including East Jerusalem' (*UNRWA*, 13 June 2025) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-175-situation-gaza-strip-and-west-bank-including-east-jerusalem>> accessed 18 June 2025.

In addition to repeated instructions by the Israeli military for the population to relocate, an example of coercive measures forcing people to do so would be when Israel placed North Gaza governorate under siege from October 2024 until the ceasefire in January 2025. This prompted concerns over the implementation of the so-called 'Generals' Plan' reportedly devised by former Israeli generals pursuant to which civilians would be ordered to leave North Gaza, the area would be cut off from humanitarian relief deliveries, and those remaining would be considered fighters who can be legitimately targeted in the conduct of hostilities. Eg Bethan McKernan, "Israel is Trying to Erase Our Presence": Palestinians Say "Generals' Plan" to Clear North Gaza is Under Way' *The Guardian* (Jerusalem, 26 October 2024) <<https://www.theguardian.com/world/2024/oct/26/israel-generals-plan-clear-north-gaza-palestinians>> accessed 18 June 2025. For a legal assessment of the situation in North Gaza at the time see Analysis of Developments in North Gaza (n 68).

Furthermore, during the siege of North Gaza, medical facilities were rendered inoperable one after the other due to attacks and military operations by Israeli forces as well as a lack of supplies. Legal Analysis of the Destruction of Healthcare in North Gaza (n 68).

At the end of May 2025, it was reported that the last two functioning hospitals in North Gaza were surrounded by Israeli forces and evacuated, leaving the area once again without a functioning healthcare facility. Sarah El Deeb, 'Two of the Last Functioning Hospitals in Northern Gaza are Encircled by Israeli Forces, Staff Say' *The Associated Press* (Beirut, 22 May 2025) <<https://apnews.com/article/gaza-israel-palestinians-amas-hospitals-health-war-c7e55bab701799808f7c881d4f5fcef9>> accessed 18 June 2025; Mallory Moench, 'Last Hospital in North Gaza Governorate Evacuated After Israeli Order' *BBC News* (London, 31 May 2025) <<https://www.bbc.com/news/articles/cdd25d9vp2qo>> accessed 18 June 2025.

<sup>148</sup> When Israel announced its plans to significantly expand its military operations in Gaza in early May 2025, Israeli Prime Minister Benjamin Netanyahu indicated that Gaza's population would be relocated to the South of the Strip, ostensibly for their 'protection'. 'Israeli Cabinet Approves Expanded Military Plan Including Occupying Gaza' *Le Monde with AFP* (Paris, 5 May 2025) <<https://www.lemonde.fr/en/international/article/2025/05/05/israeli-cabinet-approves-expanded-military-plan-including-occupying-gaza>> accessed 18 June 2025. See also Dana Karni, Lucas Lilieholm, and Oren Liebermann, 'Israel Vows to Escalate War with New Plan to "Conquer" Gaza' *CNN* (Jerusalem, 6 May 2025) <<https://edition.cnn.com/2025/05/05/middleeast/israel-gaza-expansion-hnk-intl>> accessed 18 June 2025.

<sup>149</sup> As highlighted even by the former Head of the International Law Department of Israel's Military Advocate General's Corps. Tammy Kenner and Pnina Sharvit Baruch, 'Operation "Gideon's Chariots" - Are Red Lines Being Crossed?' (*The Institute for National Security Studies*, 29 May 2025) <<https://www.inss.org.il/he/publication/gideon-chariots-law/>> accessed 18 June 2025.

'These characteristics of the evacuation – its general and extensive scope, while pushing the population into relatively limited areas where it is unclear whether they will be provided with a satisfactory humanitarian

History offers similar examples where restrictions over the location of aid was imposed by belligerents with a view to forcibly displacing a population from certain areas.<sup>150</sup>

### 3. Violation of the obligation to respect and protect civilians

IHL provides that persons who do not or no longer participate in hostilities, including civilians, shall be 'treated humanely', which implies, notably, that they shall be respected and protected against all acts of violence.<sup>151</sup>

The obligation of 'respect' means that parties to the conflict must refrain from such acts, including murder, towards persons under their control. At the same time, there may be circumstances in which the use of force is warranted, or even legally required – for law enforcement purposes, or 'to restore and maintain public order and civil life' in occupied territory.<sup>152</sup> When force is used for such purposes, the rules governing the type and amount

---

response, the lack of a clear announcement about the temporariness of the evacuation, and statements by political officials regarding the connection between the evacuation and the "voluntary emigration" of the residents from the Gaza Strip – reinforce the suspicion that the evacuation and the concentration of the population is an end in itself from the government's perspective [...]. Massive evictions, carried out in order to deliberately push the civilian population out of the Gaza Strip, are illegal [...]. A process of widespread and planned forced displacement of the entire population may fall under the definition of "ethnic cleansing," which is a crime against humanity, and may even be interpreted as "deliberate subordination to living conditions intended to bring about the physical destruction of the group," which falls under the definition of genocide' – unofficial translation from Hebrew).

Israel has also set up a controversial agency tasked with coordinating the departure of Palestinians from Gaza. Furthermore, Israeli and US officials have reportedly been in contact with third countries to discuss a potential relocation of Palestinians from Gaza. Dana Karni, Tim Lister, and Nadeen Ebrahim, 'Israel Approves Controversial Proposal to Facilitate Emigration of Palestinians from Gaza' *CNN* (Atlanta, 24 March 2025) <<https://edition.cnn.com/2025/03/24/middleeast/israel-approves-proposal-to-facilitate-emigration-of-palestinians-from-gaza-intl>> accessed 18 June 2025; 'Ethnic Cleansing Feared as Trump asks Jordan, Egypt to Take Gaza Residents' *Al Jazeera* (Doha, 26 January 2025) <<https://www.aljazeera.com/news/2025/1/26/ethnic-cleansing-feared-as-trump-asks-jordan-egypt-to-take-gaza-residents>> accessed 18 June 2025.

Already in November 2023, around a month into the hostilities, Israel's ultranationalist Finance Minister and Minister in the Defence Ministry Bezalel Smotrich "welcome[d] the initiative of the voluntary emigration of Gaza Arabs to countries around the world". James Mackenzie, 'Israeli Minister Calls for Voluntary Emigration of Gazans' *Reuters* (Jerusalem, 14 November 2023) <<https://www.reuters.com/world/middle-east/israeli-minister-calls-voluntary-emigration-gazans-2023-11-14/>> accessed 18 June 2025.

In April 2025, Foreign Minister Gideon Sa'ar said that '[e]ncouraging voluntary emigration from Gaza is the "most moral and humane thing to do"'. 'Sa'ar: Encouraging Gaza Emigration "Most Moral and Humane Thing"' *JNS* (Newton, 27 April 2025) <<https://www.jns.org/saar-tells-jns-policy-summit-encouraging-gaza-emigration-most-moral-and-humane-thing/>> accessed 18 June 2025.

<sup>150</sup> For instance, according to some historical accounts, in the mid-1980s, as Ethiopia was affected by famine and a conflict in the Tigray region, restrictions over aid distributions imposed by the Ethiopian government contributed to the forcible transfer of population from the north to the south of the country. See Eyal Weizmann, *The Least of All Possible Evils: Humanitarian Violence from Arendt to Gaza* (Verso 1st edn, 2011) 20-27.

<sup>151</sup> See GCs common art 3; GC IV art 27; AP I art 75.

<sup>152</sup> An occupying power is entitled to use force for that purpose pursuant to Hague Regulations art 23. Eg Kenneth Watkin, 'Use of Force During Occupation: Law Enforcement and Conduct of Hostilities' (2012) 94 *Intl Rev Red Cross* 267.

of permissible force derives from IHRL.<sup>153</sup> Under this IHRL-based 'law enforcement paradigm', the use of force is limited to situations of absolute necessity: lethal force may be used only as a last resort in order to protect life, when other available means remain ineffective, or without any promise of achieving the intended result.<sup>154</sup> More specifically, force may only be employed as a last resort, in compliance with the cumulative requirements of (1) legality; (2) necessity; (3) proportionality; (4) precaution; and (5) non-discrimination.<sup>155</sup> In particular, the use of firearms is a measure of last resort only permissible where necessary to counter an imminent or grave threat to life or physical integrity, and when less violent means are not or would not be effective.<sup>156</sup> The law enforcement paradigm is therefore restrictive with regards to the justifications, scope, and methods for using force.

By contrast, when force is used in the exceptional circumstances of hostilities, that is, the employment of means and methods of warfare between parties to an armed conflict, the IHL-based 'conduct of hostilities paradigm' regulates the type and amount of force that may be used. This more permissive paradigm allows the use of force against members of the armed forces of the opposing party to the conflict, but prohibits attacks against civilians, unless and for such time as they are directly participating in hostilities. It also tolerates the infliction of incidental harm on civilians and civilian objects that is not excessive in relation to the military advantage sought.<sup>157</sup> In the absence of hostilities between parties to an armed conflict, any use of force must adhere to the law enforcement paradigm – irrespective of whether the police or military forces are involved.<sup>158</sup>

The obligation to 'protect', on the other hand, imposes on parties to the conflict a duty to exercise due diligence to protect civilians against acts of violence committed by third parties (i.e., actors whose conduct is not attributable to the State, such as private contractors).<sup>159</sup> Parties to an armed conflict must also take the necessary precautions to

---

<sup>153</sup> For the argument that the IHRL norms govern the implementation of the (IHL-based) duty to maintain order in an occupied territory, see eg *ibid* 301–310.

<sup>154</sup> *ibid* 296; Gloria Gaggioli, Legal Adviser, ICRC, *Expert Meeting: The Use of Force in Armed Conflict: Interplay Between the Conduct of Hostilities and Law Enforcement Paradigms* (ICRC 2013) 7.

<sup>155</sup> See 'Overkill: A Critical Appraisal of the Use of Force by Israel in the West Bank' (*IHL Centre*, 6 January 2025) 3–4 <<https://www.diakonia.se/ihl/news/overkill-a-critical-appraisal-of-the-use-of-force-by-israel-in-the-west-bank/>> accessed 18 June 2025.

<sup>156</sup> 'The Use of Force in Law Enforcement Operations' (*ICRC*, 2015) 4 <[https://www.icrc.org/sites/default/files/document/file\\_list/the\\_use\\_of\\_force\\_in\\_law\\_enforcement\\_operations.pdf](https://www.icrc.org/sites/default/files/document/file_list/the_use_of_force_in_law_enforcement_operations.pdf)> accessed 18 June 2025.

<sup>157</sup> See *Overkill: A Critical Appraisal of the Use of Force by Israel in the West Bank* (n 155) 3–4.

<sup>158</sup> *ibid* 4.

<sup>159</sup> General Comment 36 (n 57) para 7.

protect the civilian population under their control against the dangers resulting from military operations.<sup>160</sup>

Some of the conditions imposed by Israel on aid delivery in Gaza since May 2025 contradict the letter and spirit of the above-mentioned IHL and IHRL rules. Such conditions include the deployment of Israeli military forces around the distribution sites to 'secure' the area and routes leading to the sites, as well as imposing the use of private armed contractors to 'secure' the distribution hubs and oversee distribution operations.

First, the deployment of Israeli military forces in the perimeter of the distribution sites has reportedly led to deadly incidents in breach of Israel's responsibility to respect civilians. From the first days of operation of the distribution hubs set up by Israel and administered by the Foundation, multiple incidents around the hubs have resulted in hundreds of Palestinians being killed and thousands injured, including children.<sup>161</sup> It appears that at least some of these incidents involved Israel's armed forces, according to public reports as well as statements from the Israeli military itself.<sup>162</sup> According to information publicly

---

<sup>160</sup> AP I art 58.

<sup>161</sup> OCHA noted that, as of 11 June, the Ministry of Health in Gaza reported that hospitals have received 224 people killed and over 1,858 people injured from the areas newly designated for food distributions. OCHA oPt Humanitarian Situation Update #296 | Gaza Strip (n 12). On 15 June, at least 17 Palestinians were reported to have been killed while trying to reach aid distribution sites. 'Israel Kills 59 Palestinians in Gaza, Many While Trying to Get Aid' *Al Jazeera* (Doha, 15 June 2025) <<https://www.aljazeera.com/news/2025/6/15/israel-kills-23-palestinians-in-gaza-half-of-them-while-trying-to-get-aid>> accessed 18 June 2025. On 17 June, at least 70 Palestinians were reported to have been killed in the same manner. 'Israel Kills at Least 70 Palestinians in Gaza's Deadliest Day in Aid Sites' *Al Jazeera* (Doha, 17 June 2025) <<https://www.aljazeera.com/news/2025/6/17/israeli-soldiers-shoot-dozens-in-latest-massacre-at-gaza-aid-sites>> accessed 18 June 2025. In yet another incident on 18 June, at least 51 Palestinians were reportedly killed while waiting at a distribution site. Mohammad Jahjough, Samy Magdy, and Joseph Krauss, 'At Least 51 Palestinians Killed While Waiting for Aid Trucks in Gaza, Health Officials Say' *The Associated Press* (Khan Younis, 18 June 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-gaza-aid-06-17-2025-7af5503ea7d2176674fba26d34f6ef74>> last accessed 18 June 2025.

<sup>162</sup> For instance, on 1 June, at least 31 Palestinians were killed at an aid hub near Rafah, after Israeli soldiers opened fire near crowds, according to Reuters and the Associated Press. Mohammad Jahjough and Samy Magdy, '31 Palestinians are Killed Heading to a Gaza Aid Site, Witnesses Say. Israel Denies Responsibility' *The Associated Press* (Gaza Strip, 2 June 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-hostages-aid-06-01-2025-67688833abb96fc068c42d10da90a0a4>> accessed 18 June 2025. On 3 June, 27 Palestinians were reportedly killed near a distribution hub in Rafah. Nidal Al-Mughrabi and Crispian Balmer, 'At Least 27 Palestinian Killed Near Gaza Aid Site; U.N. Demands Investigation' *Reuters* (Cairo/Jerusalem, 3 June 2025) <<https://www.reuters.com/world/middle-east/least-24-palestinians-killed-near-gaza-aid-site-medics-say-2025-06-03/>> accessed 18 June 2025. The Israeli military acknowledged that it opened fire towards suspects that had deviated from designated aid routes. '[...] The troops carried out warning fire, and after the suspects failed to retreat, additional shots were directed near individual suspects who advanced toward the troops...' Israel Defense Forces (X, 3 June 2025) <<https://x.com/IDF/status/1929778190253281517>> accessed 18 June 2025. In connection to another incident on 10 June, the Associated Press reported that '[t]he Israeli military said it fired warning shots at people it referred to as suspects. It said they had advanced toward its troops hundreds of meters (yards) from the aid site prior to its opening hours'. Wafaa Shurafa and Samy Magdy, '36 Palestinians Killed Trying to Obtain Desperately Needed Aid in Gaza, Officials Say' *The Associated Press* (Gaza Strip, 10 June 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-hostages-aid-06-10-2025->

available at the time of writing, it appears that the circumstances surrounding the use of force by Israeli soldiers were unrelated to the hostilities with organised armed groups. Rather, the circumstances appear to have been related to crowd control and/or to the enforcement of military orders (restricting or prohibiting access to areas around the distribution hubs), in areas where Israel's armed forces exercised effective territorial control.<sup>163</sup> In cases of this kind, the use of force is subject to the (more restrictive) requirements of the law enforcement paradigm mentioned above. In particular, Israel's armed forces would have to demonstrate how firing at Palestinians seeking to access aid distribution sites with drones, tanks, helicopters, and firearms was strictly unavoidable in order to protect the life of Israeli soldiers (or the lives of others, such as Foundation personnel).<sup>164</sup> Pursuant to the IHRL-based law enforcement paradigm, such incidents of use of force resulting in death or serious injury require prompt, thorough, and transparent investigation by an independent and impartial body, failure of which could in and of itself give rise to a separate breach of IHRL.<sup>165</sup>

Second, Israel's requirement that its armed forces be deployed around the sites and that private armed contractors oversee the distribution of aid is hard to reconcile with its duty to protect civilians.<sup>166</sup> These modalities force civilians to be in close proximity to armed actors, thereby creating a number of risks which would be incompatible with Israel's duty to exercise due diligence to protect them. First, the presence of Israel's armed forces and private armed contractors (perceived as being) associated with Israel increases the risk of attacks by Israel's adversaries in the context of the ongoing armed conflict, and

---

fe6c6c36e302ee1766f1b0f2a7d5bc19> accessed 18 June 2025. On 14 June, at least 15 Palestinians were killed in central Gaza. The Israeli military said that 'troops fired warning shots at a group they believed posed a potential threat', and an 'aircraft also struck one person who advanced rapidly towards them'. Sebastian Usher, 'Fifteen Killed by Israeli Fire Near Gaza Aid Site, Hospitals Say' *BBC News* (Jerusalem, 14 June 2025) <<https://www.bbc.com/news/articles/c79e24x73xn0>>. See also Mohammad Jahjough and Samy Magdy, 'At Least 8 Dead in Shooting Near Israeli and US-Supported Aid Sites in Gaza' *The Associated Press* (Khan Younis, 15 June 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-hostages-aid-06-15-2025-bf26d758d6af22b0652984759b6ff5b7>> accessed 18 June 2025.

<sup>163</sup> For instance, in connection to the incident on 3 June, Israel's armed forces indicated that they opened fire because 'suspects' accessed prohibited routes. Israel Defense Forces (n 163) ('Earlier today, during the movement of the crowd along the designated routes towards the aid distribution site—approximately half a kilometre from the site—IDF troops identified several suspects moving towards them, deviating from the designated routes. The troops carried out warning fire, and after the suspects failed to retreat, additional shots were directed near individual suspects who advanced toward the troops...').

On 5 June, the Israeli military declared routes leading to the distribution sites as 'combat zones' and prohibited Palestinians from accessing them. 'Israeli Strikes Kill More Than 50 Palestinians Across Gaza' *Al Jazeera* (Doha, 5 June 2025) <<https://www.aljazeera.com/news/2025/6/5/us-backed-ghf-group-extends-closure-of-gaza-aid-sites-for-second-day>> accessed 18 June 2025.

<sup>164</sup> Tom Bennett, 'At Least 27 Palestinians Killed by Israeli Fire Near Aid Centre, Gaza Authorities Say' *BBC News* (Jerusalem, 3 June 2025) <<https://www.bbc.com/news/articles/c2lkwz0y5n0o>> accessed 18 June 2025; Sebastian Usher and Rushdi Abualouf, 'Israeli Forces Kill 51 Palestinians Waiting for Flour at Gaza Aid Site, Witnesses and Rescuers Say' *BBC News* (Jerusalem, 17 June 2025) <<https://www.bbc.com/news/articles/c74zj9kv2xjo>> accessed 18 June 2025.

<sup>165</sup> Overkill: A Critical Appraisal of the Use of Force by Israel in the West Bank (n 155) 4.

<sup>166</sup> Eg Parker and others (n 85).

therefore the risk for civilians retrieving aid or participating in the aid delivery to be killed or injured in the crossfire.<sup>167</sup> Second, the involvement of armed contractors increases the likelihood of tensions and violent incidents during distributions, again putting civilians and humanitarian staff at risk.<sup>168</sup> Third, civilians forced to come to distribution hubs controlled by the Israeli military and armed contractors associated with it to access life-saving assistance may be perceived as supporting Israel and thus be subject to reprisals. Reports indicate that this risk has already driven civilians away from such distribution sites.<sup>169</sup> Overall, the multiple risks posed by the involvement of Israel's armed forces and of armed contractors appear incompatible with Israel's duty to exercise due diligence to protect civilians.

## Conclusion

The present analysis highlights that the severe limitations and coercive conditions imposed by Israel since May 2025 on the delivery of aid in the Gaza Strip violate several of its obligations under IHL.

First, Israel continues to violate its obligation to itself meet the needs of the population in Gaza.

Second, the conditions that Israel has imposed on the passage of supplies make it impossible to meet the needs of the population in Gaza in an impartial manner, resulting in a violation of Israel's obligation to allow and facilitate humanitarian activities.

Third, Israel has violated its obligation to consent to other offers from UN agencies and other impartial humanitarian organisations capable of satisfying this standard according to previous modalities of delivery.

Fourth, the present analysis shows that Israeli-imposed conditions are very likely to result or have already resulted in further violations, including – but not limited to – the use of starvation of civilians as a method of warfare, forced displacement, and violations of the

---

<sup>167</sup> On 11 June 2025, the Foundation declared that ' Hamas attacked a bus transporting some of its Palestinian workers, killing at least eight people'. Hugo Bacheaga and James Chater, 'US-Backed Aid Group Says Hamas Killed at Least Eight Palestinian Staff in Bus Attack' *BBC News* (London, 12 June 2025) <<https://www.bbc.com/news/articles/c4gr1rk5nvxo>> accessed 18 June 2025.

<sup>168</sup> On several occasions during the conflict, Israeli forces opened fire at Palestinian civilians gathered around trucks delivering aid, killing dozens. Eg David Gritten, 'Dozens Injured by Israeli Gunfire as Crowds Overwhelmed Gaza Aid Site, UN Says' *BBC News* (London, 28 May 2025) <<https://www.bbc.com/news/articles/clyz4mzww1ro>> accessed 18 June 2025; Al Jazeera Staff, 'Flour Massacre: How Gaza Food Killings Unfolded, and Israel's Story Changed' *Al Jazeera* (Doha, 1 March 2024) <<https://www.aljazeera.com/news/2024/3/1/flour-massacre-how-gaza-food-killings-unfolded-and-israels-story-changed>> accessed 18 June 2025. This demonstrates the risk associated with the presence of armed actors at and around distribution sites.

<sup>169</sup> The BBC reports that '[a] displaced woman from the neighbouring city of Khan Younis expressed concern about having to cross Israeli military lines to collect aid from the [Foundation's] sites', and that another man would 'refuse to accept American aid under these terms'. Gritten (n 168).

obligation to respect and protect civilians. Some of these violations may implicate those responsible in the commission of international crimes.

The multiple and continuous violations of IHL committed by Israel throughout the conflict remain a matter of urgent legal concern for the whole of the international community: all States, as parties to the 1949 Geneva Conventions, have committed to 'ensuring respect' for IHL.<sup>170</sup> Their obligations in this regard include – but are not limited to – doing everything reasonably in their power to prevent and bring to an end Israel's violations, in particular by using their influence on Israel, as well as refraining from encouraging, aiding, or assisting Israel in the commission of such violations.

The IHL Centre is also deeply concerned by the fact that the conditions imposed by Israel on the delivery of aid in Gaza run counter to time-tested, globally recognised humanitarian principles, thus not only jeopardising lives in Gaza, but also undermining the humanitarian values and principles essential to saving lives, alleviating suffering, and upholding human dignity in the direst circumstances around the world.

---

<sup>170</sup> For an analysis of some of these violations see the legal briefs and legal updates published by the IHL Centre on a continuous basis. 'Hostilities and Rampant Violence in the oPt | Legal Updates' (*IHL Centre*) <<https://www.diakonia.se/ihl/jerusalem/2023-2024-hostilities-escalating-violence-opt/legal-updates/>> accessed 18 June 2025; 'Hostilities and Violence in the oPt' (*IHL Centre*) <<https://www.diakonia.se/ihl/jerusalem/2023-2024-hostilities-escalating-violence-opt/>> accessed 18 June 2025.