


Blocking and Destroying Food Aid in Conflict Areas According to International Law

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Abstract

Introduction: The ongoing Israeli conflict in Gaza has triggered a severe food crisis due to the blocking and destruction of food aid, violating IHL provisions that prohibit starvation as a warfare tactic and attacks on objects essential for civilian survival.

Purposes of the Research: This research examines IHL regulations and legal measures concerning food aid in the Gaza conflict.

Methods of the Research: The study employs normative legal research by analyzing legal library materials through legislative, case-based, and conceptual approaches. The sources of legal materials include primary, secondary, and tertiary materials, collected through library research and analyzed qualitatively.

Results of the Research: The findings indicate that IHL safeguards humanitarian aid, including food, in conflict zones, as outlined in the 1949 Geneva Conventions and the 1977 Additional Protocol I. Article 23 of the Fourth Geneva Convention mandates that warring parties permit humanitarian aid delivery, while Article 54 of Additional Protocol I prohibits destroying objects vital for civilian survival. Blocking and destroying food aid constitutes a grave breach, classified as a war crime under the 1998 Rome Statute. Legal enforcement mechanisms include decisions by the International Court of Justice (ICJ), investigations by the International Criminal Court (ICC), UN Human Rights Council (UNHRC) fact-finding missions, and humanitarian organizations such as the International Committee of the Red Cross (ICRC).

Keywords: International Humanitarian Law; Blocking Food Aid; Enforcement of International Law.

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INTRODUCTION

International law encompasses the principles and rules that govern the relations of states and individuals in the global community,¹ Shearer defines international law as a set of rules that bind countries in their interactions, including norms about international organizations and individuals.² International Humanitarian Law (IHL) began to be known in Indonesia in the late 1970s. This term was originally called the laws of war, later changed to the laws of armed conflict. In the early 20th century, this law was developed based on human values to govern war. Finally, the term was refined into international humanitarian law applicable in armed conflict.³ Wars and armed conflicts have become part of human history and

¹ Budi Pranowo Dan Supartono, *Hukum Humaniter* (Surabaya: Scopindo Media Pustaka 2022) p. 104

² Setya Yudagyo dkk, *Hukum Internasional dalam dinamika hubungan Internasional* (Malang: Ub Pres 2019) p. 2

³ Mirsa Astuti, *Hukum Humaniter Internasional* (Medan: Umsu Pres, Redaksi 2024) p. 1

international relations. In these situations, the parties often lose control, ignore humanitarian principles, and act violently. As a result, there have been many casualties, damage to civilian property, infrastructure, and destruction of historical and cultural sites. Civilians are often the main targets, even experiencing heinous massacres.⁴

International Humanitarian Law, or the law of war, is the branch of international law that governs armed conflicts, both international and non-international. Based on humanitarian principles, this law aims to reduce the suffering of the uninvolved parties and limit the use of cruel weapons for a more humane fight.⁵ According to Daniel Thurer, international humanitarian law aims to "humanize" organized violence.⁶ According to Pietro Verri, armed conflict includes armed disputes between two or more countries, countries with non-state entities, countries with rebel factions, or between ethnic groups within a country.⁷ Armed conflict not only threatens the security of the country, but also has a great impact on Society, since it is often associated with violence and bloodshed, it is necessary to have the Law of War that limits the use of military force and regulates the treatment of individuals during conflicts in order to preserve human values.

The war in Gaza in 2023 triggered a worsening food crisis in Palestine. After the Hamas attack on October 7, 2023, Israel imposed a total blockade, including halting the food supply. Previously, about 500 aid trucks entered Gaza every day, but after the blockade, the entire population faced hunger. According to the World Food Programme (WFP), before the war, 33% of the population was already experiencing food insecurity, and now that figure has risen to 100%. As a result, 4.923 million Palestinians are at risk of starvation. In addition, the International Committee of The Red Cross (ICRC) warned that the blockade is also worsening health conditions, with an increased risk of infectious diseases such as cholera, diarrhoea, hepatitis A, and typhus.⁸

The legal rule relevant to the food crisis experienced by the Palestinians in Article 54 of Additional Protocol 1 to the Geneva Conventions of 1977 paragraph (1) and paragraph (2) on "Protection of objects that are absolutely necessary for the survival of the civilian population, reads: 1). Causing starvation to death of civilians as a means of war is prohibited. 2). It is forbidden to attack, destroy, eliminate or abandon objects that are absolutely necessary for the survival of the civilian population, such as foodstuffs, agricultural areas that produce foodstuffs, crops, livestock, drinking water installations and water supplies, with the specific purpose of negating the value of such objects as a source of food for the civilian population or for the opposing Party, whatever the reason, whether to lay civilians to death, cause them to flee, or for any other reason". Article 14 of Additional Protocol II to the 1977 Geneva Convention on the Protection of Objects Essential to the Survival of the Civilian Population reads: It is forbidden to cause starvation to the civilian population as a means of hostility. Therefore, it is forbidden to attack, damage, move or render useless, objects that are indispensable for the survival of the civilian population, such as foodstuffs, agricultural areas to produce foodstuffs, crops, livestock, drinking water and supply installations and irrigation buildings."

⁴ Umar Suryadi Bakry, *Hukum Humaniter Internasional: Sebuah Pengantar* (Jakarta: Kencana Prenada Media 2019) p. 1

⁵ *Ibid*

⁶ Daniel Thurer, *Internasional Humaniter Law: Theory, Practice, Context* (The Hague: Hague academy of International Law 2011) p. 21

⁷ Pietro Verri, *Dictionary Of International Law Of Armed Conflict* (Geneva: Icrc, 1992) p. 34-35

⁸ Jamal Dkk, "Terganggunya Pasokan Pangan Palestina Sebagai Akibat Dalam Perang Israel-Palestina Menurut Hukum Humaniter Internasional," *Jurnal Hukum Humaniter Dan Ham* 4, no. 2 (2022) h. 81, <https://doi.org/10.25105/terasrev.v4i2.19956>

In January 2024, Israel blocked and denied access to more than half of all humanitarian aid shipments destined for northern Gaza, according to a UN report.⁹ United Nations (UN) officials accused Israel of "systematically" blocking much-needed humanitarian aid for Palestinians in Gaza. The United Nations warns that at least a quarter of Gaza's population is on the brink of starvation. This warning was conveyed after video footage emerged showing Israeli forces shooting at Palestinians who were gathering food in northern Gaza¹⁰.

According to Human Rights Watch (HRW), Israel committed war crimes in Gaza by deliberately depriving locals of food and water, causing starvation. Israeli forces deliberately blocked the supply of fuel, food, and water, they also prevented humanitarian aid from reaching the area, damaging farmland, and depriving civilians of their need for survival.¹¹ Yazan al-Kafarna (10) died on March 4, 2024 at al-Najjar Hospital, Rafah, due to malnutrition he suffered from since the war began on October 7, 2023. Palestinian Health Ministry spokesman Ashraf al-Qudra stated that Gazans are now battling hunger, with the number of casualties mounting, especially among children. The crisis has been exacerbated by the collapse of the health system in northern Gaza, especially after Kamal Adwan's hospital was taken over by Israeli forces.¹²

The use of food in international humanitarian law as a tool of political pressure or war strategy is prohibited. Food aid must be distributed without discrimination, without regard to the recipient's political affiliation, location, gender, age, ethnicity, or religion. Legally, acts that deliberately block access to food and hinder the distribution of food to people in need, especially in areas of conflict or humanitarian crisis, are serious violations and can be categorized as international crimes. Therefore, strict legal measures are needed to classify such acts as war crimes and ensure that the perpetrators are brought to justice in international courts.¹³

This research has several main problems that need to be studied further, namely: 1) How is international humanitarian law regulated for food aid in conflict areas? 2) What legal remedies can be taken to deal with the Blockade and Destruction of Food Aid in Gaza According to International Humanitarian Law?. Based on the formulation of the problems that have been presented, this study aims to examine the international humanitarian law arrangements related to food aid in conflict areas as well as examine legal remedies to deal with the blocking and destruction of food aid in Gaza within the framework of international humanitarian law.

METHODS OF THE RESEARCH

This research uses Normative Law Research, which is a process of investigation and analysis of law as a collection of norms, regulations, principles, theories, and other literature to answer the legal problems being studied.¹⁴ Using a law and regulation, case approach,

⁹ Washington Kompas dunia " PBB Ungkap Israel Memblokir 51 dari 61 Pengiriman Bantuan ke Gaza Utara Selama Januari," washintong, 2024 <https://www.kompas.tv/internasional/482948/pbb-ungkap-israel-memblokir-51-dari-61-pengiriman-bantuan-ke-gaza-utara-selama-januari>,

¹⁰ PBB "Israel Menghalangi Bantuan Masuk Ke Gaza Dengan Sistematis," 2024, <https://Internasional.Republika.Co.Id/Berita/S9m8el370/Pbb-Israel-Menghalangi-Bantuan-Masuk-Ke-Gaza-Dengan-Sistematis>

¹¹ Israel Human Rights Watch Retrieved Starvation Used Weapon War Gaza 2023, <https://G.Co/Kgs/Avjxctb>

¹² Kompas, " Kisah Bocah 10 Tahun di Gaza, Bertahan Hidup dengan Sepotong Roti dan Meninggal Dunia karena Malnutrisi," Kompas 2024 <https://www.kompas.com/tren/read/2024/03/06/190000965/kisah-bocah-10-tahun-di-gaza-bertahan-hidup-dengan-sepotong-roti-dan?page=all>

¹³ Amalia Zuhra, " Ketahanan Pangan Dan Tanggung Jawab Negara Saat Konflik Bersenjata: Sebuah Tinjauan Hukum," *Jurnal Hukum Humaniter Dan Ham* 1, no. 1(2019): p. 117. <https://doi.org/10.25105/teras-lrev.v1i1.6101>

¹⁴ Muhaimin, *Metode Penelitian Hukum*, (Mataram: Mataram University Press, 2020), p. 48

and conceptual. The sources of legal materials used include primary, secondary, and tertiary legal materials. The technique of collecting legal materials is carried out through literature research using qualitative analysis.

RESULTS AND DISCUSSION

A. International Humanitarian Law on Food Assistance in Conflict Areas

According to Pictet, international humanitarian law is a set of rules of international law that guarantee respect for the individual and encourage his progress. He divided it into two groups: the Law of War, which is a rule that regulates hostilities and aims to reduce the suffering caused by war to the extent that military necessity allows, and the Law of Human Rights, which is a rule that guarantees individuals the enjoyment of basic rights and freedoms and protects them from social evils.¹⁵

Humanitarian law is an international rule, both from treaties and customs, that aims to address humanitarian problems in armed conflict. These rules limit the methods and tools of war and focus on the protection of victims and affected property. The protection of war victims is a key aspect of humanitarian law, which is based on international treaties and customs.¹⁶ HHI aims to safeguard humanity, protect lives, and reduce suffering for civilians as well as individuals who are no longer involved in combat. For this reason, HHI regulates the procedures for carrying out war so that the humanitarian impact can be minimized.

The HHI source refers to Article 38 of the Statute of the International Court, which includes: 1) International Treaties: a) The Hague Convention (1899, 1907) regulates the methods and instruments of war; b) The Geneva Convention (1949) establishes protection for victims of war, consisting of four main conventions and two Additional Protocols (1977); 2) International Customary Law: Formed from state practice and juris opinion to fill the void of treaties; 3) General Law Principles: Applied by the International Court of Justice in the enforcement of humanitarian law; 4) Court Decisions and Legal Teachings: To be a guideline in the application of humanitarian law; 5) Other Declarations and Protocols: Such as the 1856 Paris Declaration, the 1868 St. Petersburg Declaration, and the 1927 Geneva Protocol.¹⁷

Basic Principles of HHI: 1) Principle of Differentiation: Separating combatants and civilians to prevent attacks on non-involved parties; 2) Prohibition of Hors de Combat Attacks: Prohibits attacks on combatants who are no longer fighting (e.g., prisoners of war); 3) Prohibition of Causing Excessive Suffering: Prohibits the use of force or weapons that cause unnecessary suffering; 4) Principle of Proportionality: Ensuring the impact on civilians is proportional to the military gains gained; 5) Military Interests: Limiting military actions to remain within the corridors of law and humanity.¹⁸

This arrangement affirms that international humanitarian law aims to protect victims of conflict, ensure food aid is not blocked or destroyed, and maintain a balance between military and humanitarian interests. The right to food is a fundamental right in human rights, because without it, other rights lose their value. Hunger can threaten the right to life that is considered universal. The responsibility of a state is not only limited to its jurisdiction, but it can also extend to the international level. The Universal Declaration of

¹⁵ Herman Suryokumoro dkk., *Hukum Humaniter Internasional: Kajian Norma dan Kasus* (Malang: UB Press, Redaksi, Juni 2020), p. 3

¹⁶ Ambarwati, *Hukum Humaniter Internasional* (Jakarta: RajaGrafindo Persada, 2009), p. 29.

¹⁷ Umar Suryadi Bakry, *Op. Cit.*, p. 9

¹⁸ *Ibid*, p. 13-14

Human Rights (UDHR), drafted by the United Nations in December 1948 and ratified by almost all countries, recognizes human rights in a fundamental way. Article 25 of the UDHR affirms the right of every individual to a decent standard of living, including the right to food. Similarly, Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966 affirms the right of every individual to a decent life, including food, clothing, shelter, and improved living conditions. Humanitarian law covers human rights norms related to the right to food and prohibits actions that impede access to food or cause hunger during armed conflict.¹⁹

The provisions on the provision of food assistance in international humanitarian law in conflict areas are regulated in various legal instruments, including the 1949 Geneva Convention and its Additional Protocols, as well as global humanitarian principles. 1) The Right of Access to Humanitarian Assistance The Geneva IV Convention regulates the right of access to assistance, including food, through several articles: a) Article 23 requires each High Contracting Party to permit the delivery of medical supplies, food, and clothing to civilians of other parties, including children, pregnant women, and childbirth cases, even if such party is its adversary; b) Article 59 requires all parties to the conflict to permit and protect the delivery of collective aid.

Article 23 of the Geneva Convention IV and customary international law are the main basis for the obligation of warring states to allow the delivery of aid to territories they do not control. However, the commander has the authority to refuse a shipment if there is a serious concern that the aid will be used for military purposes. Based on Article 59, in the occupied area, the occupying party is obliged to ensure the availability of food and medicine for the residents. If they are unable to do so, they must permit and support aid operations by third countries or neutral organizations.²⁰ 2) Obligation to Facilitate Assistance: armed conflict, if the government is unable to provide protection or assistance in the form of food and health services, Article 70 of Additional Protocol I to the 1949 Geneva Convention obliges countries that ratify it to receive international assistance fairly and without discrimination. Humanitarian law emphasizes meeting the needs of victims of conflict with the principles of justice, proportionality, and non-discrimination. Aid should be neutral and not considered as an intervention in the conflict. In addition, Article 71 provides that aid personnel may be involved in the distribution of aid with the consent of the relevant parties, while special agreements may be made to safeguard the sovereignty of the recipient country.²¹ 3) Humanitarian principles in food aid, namely humanity, neutrality, impartiality, and operational independence, are the main guidelines in the implementation of aid. Humanitarian law ensures that aid is provided proportionately and without discrimination, while taking into account the sovereignty of the recipient country.²²

B. Blockade and Destruction of Food Aid in Gaza

Starving people is a deliberate act that causes extreme hunger, suffering, and food scarcity to the point of death. These actions can be justified if they are aimed at military interests without involving starving civilians. Sieges, blockades, and embargoes are allowed

¹⁹ Amelia Zuhra, *Op. Cit.*, p. 101

²⁰ Jeffrey Lovitky, "Simposium Israel - Hamas 2023 - Penerapan Pasal 23 Konvensi Jenewa Keempat di Gaza," Lieber Institute, 2024, <https://lieber.westpoint.edu/applicability-article-23-fourth-geneva-convention-gaza/>,

²¹ Sri Wartini, "Kewajiban Negara untuk Menerima Bantuan Kemanusiaan dalam Hal Terjadinya Internal Displaced Persons dalam Perspektif Hukum Internasional," *Jurnal Hukum* 12, no. 29 (2018) p. 33 <https://doi.org/10.20885/iustum.vol12.iss29.art2>

²² Haider, Jhuma. "Kerangka Hukum Humaniter Internasional untuk Aksi Kemanusiaan," Haider 2024. <https://gsdrc.org/topic-guides/international-legal-frameworks-for-humanitarian-action/concepts/humanitarian-principles-and-humanitarian-assistance/>

as long as civilians can leave and receive food aid. However, the use of starvation for purposes such as ethnic cleansing or population weakening is prohibited. Making starvation a method of warfare against the civilian population is a serious violation of the laws of war, which were prohibited in the HHI after the adoption of the two Additional Protocols to the 1949 Geneva Conventions.²³

Special prohibitions related to civilian starvation are contained in Article 54 of Additional Protocol I and Article 14 of Additional Protocol II of the 1977 Geneva Conventions. Article 54 paragraph (1) prohibits the use of hunger as a method of war, while paragraph (2) prohibits attacks on objects essential to the survival of civilians, such as foodstuffs, agricultural land, crops, livestock, and water installations. Similarly, Article 14 of Additional Protocol II prohibits the use of starvation as a method of hostility as well as attacks on objects essential to the survival of the civilian population.

Israel's blockade of aid deliveries to the Gaza Strip is part of a protest that began on January 24, 2024, where demonstrators opposed the entry of humanitarian aid trucks into the territory. Demonstrators blocked the delivery of aid at various locations, including the Kerem Shalom crossing, Nitzana crossing, Ashdod Port, as well as roads that were used to transport aid trucks. On May 13, 2024, demonstrators blocked dozens of aid trucks to be sent to Gaza at the Tarqiyah intersection in the Hebron Hills. During the action, some of the aid shipments fell and were thrown from trucks due to a blockade by right-wing protesters, which resulted in police arresting four people, including one minor. However, after the police left, two aid trucks were set on fire.²⁴ The Tzav 9 group claimed responsibility for the blockade, stating that aid would not be provided until all the hostages were released. They accused aid from Israel of falling into the hands of Hamas and called the truck blockade a noble act. Aid workers reported that Israeli army escorts did not prevent Israeli settler attacks. Aid convoys passing through the military line were still attacked by about 400 settlers, who threw stones and damaged aid, while the Israeli army provided no protection and instead supported the settlers. Video footage showed Israeli demonstrators throwing aid from trucks to the ground.²⁵

According to the Gaza Health Ministry, as many as 21 people between the ages of 1 day and 72 years have died due to malnutrition and dehydration. However, Defense for Children International Palestine (DCIP) warned that the death toll is likely much higher, as many Gazans, especially in the north, are starving and almost completely cut off from humanitarian aid coming in through the Rafah crossing. This condition occurs due to the blocking and strict restriction of the flow of aid by Israeli forces and civilians affiliated with the Israel Defense Forces (IDF). Israeli soldiers stand guard at the site, while extremist settler groups erect roadblocks and camps, some even equipped with inflatable palaces for children at border crossings. In addition, Israeli forces repeatedly fired on aid convoys and residents waiting for food distribution, including in the Flour Massacre incident on February 29, 2024, which left more than 800 people dead or injured.²⁶

²³ Aninda Aulia Zulfa dkk, "tindakan pengepungan yang menyebabkan kelaparan madaya dalam perspektif hukum humaniter internasional," *Jurnal Hukum Humaniter dan Ham* 4 no. 2 (2022), h.71 <https://doi.org/10.25105/terasrev.v4i2.19955>

²⁴ Wikipedia, "sumbarnya Blokade Israel terhadap pengiriman bantuan ke Jalur Gaza," wikipedia 2024 https://en.wikipedia.org/wiki/Israeli_blockade_of_aid_delivery_to_the_Gaza_Strip

²⁵ Ibid

²⁶ Bret Wilkins, "Israel Blokir Bantuan Pangan, Anak-anak Gaza Mati Kelaparan," Bret wilkins 2024 <https://www.commondreams.org/news/gaza-children-starvation>

Israel has blocked more than 80% of food deliveries to starving Gaza, according to data from humanitarian organizations that warn of the impact of a nearly year-long military siege on Palestine. In addition to Israeli airstrikes that continue to destroy settlements and cause civilian casualties, the systematic blockade of food, water, medicine, hospital supplies, and fuel is further exacerbating the humanitarian crisis.²⁷

As a result, some 2.2 million Gazans face the threat of starvation and the spread of disease. CARE, one of 15 active humanitarian organizations in Gaza, collects data on the impact of the blockade of Israeli aid. In August, an average of only 69 aid trucks per day entered Gaza – the lowest figure ever recorded. Half of the population in southern and central Gaza does not get food rations. In comparison, in August 2023, Gaza received 500 aid trucks per weekday, although that number is still considered insufficient.²⁸

C. Blocking and Destruction of Food Aid in Gaza Under International Humanitarian Law

Assessment of violations of the law: Stopping humanitarian aid, including food, is a violation of humanitarian law. The HHI principles affirm that unhindered access to aid for civilians must be guaranteed, regardless of the parties to the conflict. Assistance in the form of food, medicine, medical services, clean water, shelter, and other essential needs must not be hindered. Obstructing humanitarian aid violates HHI and can lead to starvation, lack of medicine, or deliberate torture. Article 23 of the Geneva Convention IV regulates the provision of emergency assistance, especially for pregnant women, lactating mothers, and children under 15 years of age. The country concerned has the right to examine the content and purpose of the aid and to reject it if there is a compelling reason that the aid is being used for the benefit of war, not for victims of conflict.²⁹

According to the Geneva Convention and Additional Protocol I of 1977, Acts of blockade and destruction can be considered as: 1) Gross violations: Using starvation of civilians as a method of war constitutes a serious violation of the laws and customs of war. HHI has prohibited this action since the adoption of two Additional Protocols to the Geneva Conventions. This prohibition applies to all parties to armed conflict, both international and non-international, as stipulated in Article 54 of AP I and Article 14 of AP II. These rules have been widely accepted as part of customary international law, as reflected in Rules 53 and 54 of the ICRC's Customary International Humanitarian Law Database. Therefore, all parties to the conflict, including states and organized armed groups, are obliged to comply with it, even if they are not yet parties to the Geneva Conventions and its Additional Protocols.³⁰ 2) War crimes: Article 8(2)(b)(xxv) of the Rome Statute of the ICC classifies starvation as a method of war in international armed conflict as a war crime. A 2019 amendment to Article 8(2)(e)(ix) expands the ICC's jurisdiction to cover these crimes in non-international armed conflicts. This provision prohibits actions that deliberately cause starvation to the civilian population, including depriving essential goods or obstructing aid. Several countries have adopted similar provisions in their national laws. To ensure accountability of perpetrators,

²⁷ Fitra Iskandar, "Israel blokir lebih dari 80% bantuan pangan ke Gaza," Fitra Iskandar 2024 <https://www.alinea.id/peristiwa/israel-blokir-lebih-dari-80-bantuan-pangan-ke-gaza-b2kEu9Q3h>

²⁸ Ibid

²⁹ Mohamad Dzikie Aulia Alfarauqi, "Pelanggaran Hukum Humaniter Internasional dalam Agresi Militer Israel ke Gaza Pasca-Serangan Hamas 7 Oktober 2023," *Jurnal CMES* 8 no.1 (2024), p. 15

³⁰ Global right compliance, "Larangan Kelaparan sebagai Metode Perang, global right compliance" 2024, <https://rsilpak.org/2021/starvation-as-a-method-of-warfare/>

countries need to criminalize these acts in domestic law and ratify related amendments in the ICC Rome Statute.³¹

International organization intervention : International Committee of the Red Cross (ICRC): The ICRC seeks to save lives and restore the dignity of victims of conflict by meeting their basic needs. The assistance is focused on providing food, shelter, water, and medical care, as well as supporting income and means of production. Because protection includes risk reduction, the boundaries between protection and assistance are often difficult to distinguish, but in ICRC policy, the two are intertwined.³² In the midst of this crisis, the ICRC continues to emphasize the importance of compliance with HHI rules. Prolonged restrictions on the entry of aid, as well as difficulties in distributing it safely and effectively, have reduced the ability of humanitarian organizations to provide an adequate response. Urgent measures must be taken to ensure the safe and sustainable delivery of humanitarian assistance, provide guarantees of protection for civilians seeking to displace, and urge all parties to continue to safeguard the safety of civilians and health infrastructure, regardless of evacuation orders.³³ The ICRC continues to do its utmost to support the people affected by the conflict, by doing various ways to ensure that aid, including essential health services, reaches Gaza, and continues to fight for the rights of the hostages detained in Gaza.

The Role of the United Nations (UN) Through WFP and UNRWA. The United Nations, which was established in 1945, aims to maintain world peace, strengthen relations between countries, improve welfare, and uphold human rights. With its mandate, the United Nations addresses a wide range of global issues and provides a platform for its member states.³⁴ Di Gaza, The United Nations leads the coordination of humanitarian aid through the Office for the Coordination of Aid (OCHA), working closely with various partners to ensure efficient and as-needed distribution. UNRWA, which was formed in 1949, provides assistance and protection to Palestinian refugees, providing educational, health, and social assistance services. Currently, some 1.7 million people are taking refuge in UNRWA facilities, which have been the target of attacks, killing more than 319 refugees and 140 of their staff since October 7, 2023.³⁵ WFP welcomes a ceasefire on 15 January 2025, but insists that safe humanitarian access is still needed to help the more than 2 million people who depend on food aid. WFP needs \$300 million in funding for the next six months, calling for the opening of borders and freedom of movement for humanitarian teams to reach Gazans. WFP and UNRWA have prepared food supplies to support more than two million people, including food parcels, wheat flour and nutritional supplements.³⁶

Several legal mechanisms can be used against such actions: First: The International Court of Justice (ICJ): The main judicial body of the United Nations tasked with resolving disputes between countries. The ICJ has two types of jurisdictions: dispute jurisdiction, which applies only to countries, and advisory jurisdiction, which is used to provide legal opinions to UN bodies. The ICJ's decision is binding on the parties involved in the dispute. The ICJ plays an

³¹ *Ibid*

³² Rotem Giladi, "Peran Komite Internasional Palang Merah," Rotem giladi 2025 https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1456&context=book_chapters

³³ ICRC, Krisis kemanusiaan Gaza, Icrc 2025 <https://www.icrc.org/en/article/gaza-humanitarian-crisis-icrc-efforts-provide-lifesaving-support>

³⁴ Unisv, "perserikatan bangsa-bangsa," Unisv 2025 https://unis.unvienna.org/unis/en/united_nations/un_introduction.html

³⁵ UN Sustainable Development Group, "Bagaimana PBB membantu warga sipil di Gaza," UN 2025 <https://unsdg.un.org/latest/stories/how-un-helping-civilians-gaza>

³⁶ WFP, Gencatan senjata di Gaza, "WFP menyerukan pembukaan koridor kemanusiaan secara berkelanjutan," WFP 2025, <https://www.wfp.org/stories/gaza-ceasefire-wfp-calls-sustained-opening-humanitarian-corridors>

important role in enforcing international law through its decisions, with reference to international treaties and conventions, international customs, as well as general principles of international law. This includes state responsibility and the provision of compensation for violations of international law. One example is the ICJ's order to Israel to provide compensation to victims related to the blocking of aid by Israel.³⁷

Judges at the International Court of Justice (ICJ) unanimously ordered Israel to take effective and urgent measures to ensure that the supply of staple food can arrive without delay to the Palestinian population in Gaza. In a ruling issued on Thursday, the ICJ highlighted that the living conditions of Palestinians in Gaza are deteriorating, with hunger and malnutrition continuing to spread. Through a legally binding order, the court called on Israel to immediately take "all necessary and effective measures" in full cooperation with the United Nations, to ensure the provision of basic services and humanitarian assistance in large quantities. The assistance includes food, water, fuel, and medical supplies. However, the ICJ does not have a mechanism to force the implementation of its decisions.³⁸

The ICJ ruled that Gaza "no longer only faces the risk of famine," but rather that "famine is ongoing." Based on the UN observer report, it was recorded that 31 people, including 27 children, had died due to malnutrition and dehydration. The court also referred to the statement of Volker Türk, the UN High Commissioner for Human Rights, who last week said that the "situation of hunger and scarcity of food and water" was caused by Israel's restrictions on the entry and distribution of humanitarian aid and commercial goods, the displacement of large parts of the population, and the destruction of vital civilian infrastructure.³⁹ Second: State responsibility: Israel bears primary responsibility for the severe famine that left the dead and injured in the incident, as well as thousands of other people gathered in aid delivery trucks. This situation is taking place throughout the Gaza Strip, with conditions being most severe in the northern Gaza Strip, which has been devastated by Israeli attacks and where the Israeli military has taken control of the area.⁴⁰ In these areas, especially, the population experienced starvation so severe that they were reportedly forced to search for the remains of food left behind by rats and consume foliage and animal feed.⁴¹ At least ten children in the northern Gaza Strip have reportedly died from dehydration and malnutrition. This dire condition, in which famine is considered "almost inevitable," is not the result of a natural disaster, but rather a "man-made disaster."

This disaster is mainly caused by Israeli actions and omissions, including a total siege that exacerbated the blockade of Gaza, massive bombardment, as well as obstacles to aid distribution. Israel has also failed to ensure safe travel, allow looting of aid, and intimidate humanitarian workers. Third countries have a responsibility to respect and ensure compliance with HHI, including preventing violations, permitting and protecting aid deliveries, and not obstructing ICJ measures. However, the primary responsibility for the

³⁷ Anita maria, "Mekanisme Penegakan Hukum Internasional – Kekuatan dan Kelemahannya," *African journal online*, 14 no.2 (2024), p. 56

³⁸ Aljazeera, "ICJ perintahkan Israel ambil tindakan atasi kelaparan di Gaza," Aljazeera 2024 <https://www.aljazeera.com/news/2024/3/28/icj-orders-israel-to-take-action-to-address-famine-in-gaza>

³⁹ Christy Cooney, "Mahkamah Agung PBB perintahkan Israel izinkan bantuan makanan dan medis masuk ke Gaza," Christy cooney 2025, <https://www.bbc.com/news/world-middle-east-68691095>

⁴⁰ Ruth Michaelson, "UNRWA Hentikan Bantuan ke Gaza Utara di Tengah 'Runtuhnya Tata Tertib Sipil'" Sang Penjaga Londo," Ruth Mmichaelson 2024 <https://www.theguardian.com/world/2024/feb/24/unrwa-suspends-aid-to-northern-gazaamid-collapse-of-civil-order>

⁴¹ Berita dan Siaran Pers, "Gaza: Keluarga Terpaksa Mencari Makanan yang Ditinggalkan Tikus Saat 1,1 Juta Anak Terancam Kelaparan," 2024 https://reliefweb.int/report/occupied-palestinian-territory/gazafamilies-forced-forage-food-left-rats-11-million-children-face-kelaparan?_gl=1*hf6n1p*_ga*MjAzNzE0MzU4OC4xNzAyODkwMTgw*_ga_E60ZNX2F68*MTcwODY2OTA0MC41LjE

Gaza population remains in the hands of Israel.⁴² Third: Processes at the UN council: The UN Human Rights Council can send fact-finding missions to investigate abuses, prepare reports, and make recommendations to the international community. The search for facts related to human rights by the United Nations aims to collect and analyze information to report violations, especially those related to state responsibility. This includes rebel movements that assume the responsibility of the state if they succeed in forming a government. The main focus of this fact-finding is on the human rights situation as a whole, not on individual criminal responsibility. References to individual cases are more often used to describe patterns and trends of violations rather than dealing with those cases directly.⁴³

In an effort to defuse the conflict and reduce the suffering of civilians, the following are calls and recommendations to the warring parties and the Government of Israel: 1) To the Warring Parties: a) Immediately agree to a mutual ceasefire, release all hostages and civilian prisoners, and cease all actions that aggravate the situation or hinder efforts to reduce civilian suffering and end the conflict; b) Respect international humanitarian law, avoid abuses or attacks on humanitarian operations and facilities, and stop all attacks targeting civilians and civilian infrastructure; c) Allow the United Nations and humanitarian agencies to gain safe, consistent, and effective access to help populations in need throughout the Gaza Strip.⁴⁴ 2) To the Government of Israel: a) Open more border lines to support sustainable humanitarian access and restore essential services to prevent greater risk of famine; b) Halt forced evacuations that impede the humanitarian response and worsen the vulnerability of Palestinian civilians; c) Ensure that IDF forces strictly adhere to deconflict protocols to ensure the safety of the movement of humanitarian aid and personnel throughout Gaza. Remove all restrictions on essential relief items, and allow for joint oversight by the UN or other neutral parties, in accordance with practices in Syria and Yemen.⁴⁵

CONCLUSION

International Humanitarian Law Arrangements for Food Assistance in Conflict Areas, International Humanitarian Law mandates the protection of humanitarian assistance, including food, as provided for in the 1949 Geneva Convention and Additional Protocol I 1977. Article 23 of the Geneva Convention IV requires parties to conflict to permit the delivery of humanitarian aid, while Article 54 of Additional Protocol I prohibits the destruction of objects necessary for civilian survival. The blocking or destruction of food aid is considered a serious offense and can be categorized as a war crime under the 1998 Rome Statute which falls under the jurisdiction of the International Criminal Court (ICC). In an effort to enforce the law against the blocking and destruction of food aid in Gaza, there are several legal mechanisms and steps that can be taken, including: a) The International Court of Justice (ICJ): Can issue binding rulings that ensure compliance with international law and declare that actions that cause hunger are violations of the law; b) International Criminal Court (ICC): Authorized to investigate and prosecute individuals responsible for war crimes related to the deliberate starvation of civilians; c) UN Human Rights Council (UNHRC): Can send fact-finding missions and exert pressure through reports and recommendations

⁴² Diakonia internasional humanitarian law center, "Tanggung Jawab atas Kondisi Kelaparan di Gaza," Diakonia internasional humanitarian law center 2025 <https://www.diakonia.se/ihl/news/responsibility-for-conditions-of-starvation-in-gaza/>

⁴³ Lyal S. Sunga, "Bagaimana prosedur khusus hak asasi manusia PBB dapat mempertajam pencarian fakta ICC?," *Jurnal Internasional Hak Asasi Manusia* 15 no.2 (2011), p. 189

⁴⁴ Jeremi konyndyk, "Untangling the Reality of Famine in Gaza," Jeremi konyndyk 2025 <https://www.refugeesinternational.org/reports-briefs/scorecard-israel-fails-to-comply-with-u-s-humanitarian-access-demands-in-gaza/>

⁴⁵ *Ibid*

to uphold humanitarian and human rights obligations; d) The Role of Humanitarian Organizations: Institutions such as the International Committee of the Red Cross (ICRC) contribute to monitoring and advocacy to ensure food aid can be channeled.

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