

HUMANITARIAN CRISIS IN GAZA

Thematic Note 5

22 June 2021

This thematic note addresses the dire humanitarian situation in Gaza. It focuses on relevant international law and humanitarian concerns stemming from the prolonged closure enforced by Israel on Gaza, and exacerbated by the recent resurgence of hostilities between Israel and armed groups in May 2021.

The basic needs and well-being of populations living in territories subjected to control of a belligerent State, and in particular their right to an adequate standard of living continue to be protected during armed conflicts. Hostilities must be conducted with a view to avoid causing or exacerbating humanitarian crisis, including by giving due account to the reasonably foreseeable reverberating effects that hostile acts may have on civilians and civilian infrastructure.¹

LEGAL FRAMEWORK

Through its control of Gaza's land borders, airspace and territorial waters, Israel continues to exert effective control over conditions of life in Gaza and consequently remains bound by the rules of international humanitarian law forming the law of occupation. When hostilities break out, rules of international law on the conduct of hostilities are activated and provide complementary protections for the civilian population and critical infrastructure.

AREAS OF CONCERN

Israel's systematic and long-term crippling control of Gaza and recurring rounds of hostilities are among the root causes of an enduring humanitarian crisis.

Excessive impact on livelihoods and erosion of economy: Obligations to ensure civil life and adequate standard of living put limits to the freedom of the occupying power to impose measures of control. Permanent or long-lasting restrictions that have severe humanitarian consequences on the civilian population cannot be deemed meaningful and proportionate, and therefore, violate international law.

Unwarranted restrictions on the movement of goods: International law requires particular scrutiny with respect to banning and restricting the movement of those goods and services that are indispensable for the civilian population. Long-lasting limits on access to fuel, electricity, and other crucial materials, such as those necessary for maintaining and developing essential infrastructure and services, are incompatible with international law.

Excessive restrictions on the movement of persons and their enjoyment of property: International law prohibits starvation as a method of warfare and further requires that restrictions on the

movement of persons take due account of the right of persons to access agricultural lands and fishing sites at sea, as needed to maintain their livelihood.

Weakening of the health system and barriers to accessing health care: The occupying power must ensure access to healthcare, and in any event, must not to impede or obstruct medical services. Medical facilities and personnel must be respected and protected in all circumstances. Measures resulting in shortages of medicines, supplies, equipment, and expertise, necessary for health care, as well as damage and destruction of medical facilities, and injury or casualties among health care workers during hostilities, are incompatible with international law.

Physical, legal and administrative barriers to humanitarian assistance: International law obliges the occupying power not to arbitrarily block or interfere with, and to facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need. Severe access restrictions, including the closure of entry and exit points that obstruct humanitarian relief, contravene international law.

Mass displacement and shelter needs: International law requires that in planning and conducting hostilities, as well as in envisaging and enforcing restrictive measures on the movement of goods and services in territories that they control, all parties must take into account displacement of the civilian population and their needs while exposed to such realities, including their need to safety from hostilities or to rebuild houses that have been destroyed or so damaged as to be uninhabitable. Failure to do so results in the infringement of the right of population to adequate standard of living and renders the party concerned in breach of its international obligations.

¹ Hague Regulations, Article 43; Geneva Convention IV, Articles 55, 56, and 59; ICCPR, Article 12; UN Human Rights Committee, General Comment 27; ICESCR, Articles 11 and 12; UN Committee on Economic, Social and Cultural Rights, General Comments 4, 12, 14, and 15.

This thematic note is part of a series. For all notes and a detailed analysis on the resurging violence and hostilities in Israel-Palestine, visit our website: www.diakonia.se/ihl/jerusalem/resurging-violence.

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