
14 January 2024

To:

Adv. Gali Baharav-Miara

Attorney General

Major General Yifat Tomer-Yerushalmi

Military Advocate General

Dear Madam,

Urgent Appeal Regarding Humanitarian Aid for Civilians in Northern Gaza

1. In recent days, international actors have been warning with increasing urgency that there is an imminent risk of severe famine in the Gaza Strip as a whole, and especially in the northern part of the Strip.
2. Statements made by government ministers on this matter are inconsistent. For example, Minister Miki Zohar has said, “The supply isn’t reaching there [northern Gaza], and rightly so. Whoever is there should move to the south of the Strip.” In contrast, Minister Chili Tropper has stated, “The Strip is currently a combat zone. It is our responsibility to allow third-party actors to bring in humanitarian supplies.” In any case, according to international sources, aid is not properly reaching northern Gaza for various reasons, and residents there report severe hunger.
3. From the ministers’ statements, it appears that some consider the non-transfer of aid to northern Gaza to be a desirable policy, or at the very least, that others see Israel’s sole responsibility as limited to not obstructing third-party humanitarian aid — a duty derived from the laws of armed conflict applicable in active combat zones.¹
4. In our view, given the current circumstances and the technical and other difficulties in transporting aid northward from the Rafah and Kerem Shalom crossings, the duty to permit third-party humanitarian assistance requires additional measures — such as opening more entry points closer to northern Gaza and extending the operating hours of existing entry points. Consideration should also be given to allowing the entry of humanitarian aid through Israeli ports, subject to Israel’s right to inspect shipments efficiently and quickly.²
5. Moreover, several weeks ago, the IDF announced that it had achieved “operational control” in northern Gaza. Such operational control, on its face, imposes heightened obligations on Israel under the law of belligerent occupation, particularly regarding the duty to provide humanitarian assistance. It should be noted that from the moment the enemy’s governing authority has been defeated and military forces effectively control the area, the legal situation is one of “belligerent occupation” — even if some combat continues in the area. It is important to emphasize that for a belligerent occupation to exist in the legal sense, it is not a prerequisite that the army formally establish a military government in the area.³

6. Once such control is established, the occupying power is obligated to actively ensure the basic needs of the civilian population — including food and medical supplies — and to provide them itself where they are lacking.⁴ The occupying power is also obligated to ensure the operation of hospitals and medical services.⁵ These duties are in addition to the ongoing obligation to permit third-party humanitarian aid.⁶
7. We therefore urge you to inform the relevant authorities of these obligations and to ensure that the IDF is acting accordingly.

Sincerely,
Prof. Aeyal Gross
Dr. Natalie Davidson
Dr. Doreen Lustig
Prof. Eliav Lieblich
Dr. Michal Saliternik
Prof. David Kretzmer
Prof. Yaël Ronen

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1. Fourth Geneva Convention (1949), Article 23; and the principle reflected in Additional Protocol I to the Geneva Conventions, Article 70 (1977).
 2. Principle reflected in Additional Protocol I to the Geneva Conventions, Article 70(3) (1977).
 3. As per the interpretation of belligerent occupation in international humanitarian law.
 4. Ibid.
 5. Ibid.
 6. Ibid.
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