

Humanitarian assistance lies at the core of IHL. Rooted in the horrors witnessed on the battlefield of Solferino, the imperative to provide care for the wounded and sick became the foundation of the First Geneva Convention and remains a guiding principle amid the devastation of modern warfare. Today, IHL continues to uphold the essential obligation to protect and facilitate humanitarian assistance, serving as a safeguard for human dignity in the harshest circumstances. While the general rules on humanitarian assistance benefit only to civilians, those on medical assistance benefit equally to combatants and fighters.

The IHL rules governing humanitarian assistance put limits to the conduct of hostilities by emphasising state parties to armed conflict's obligation to provide for the civilian population under their control. This obligation entails providing relief for the besieged or displaced civilian population, and security for humanitarian personnel, vessels, and consignments reaching those in need. These obligations affect first and foremost the parties engaged in conflict but also all High Contracting Parties, reaffirming that the protection of humanity is a shared international responsibility.

Many contemporary armed conflicts take place in densely populated, highly interconnected environments, where even limited hostilities can have far-reaching humanitarian consequences. Vital infrastructure and essential services are often disrupted or destroyed, leaving large civilian populations in urgent need of life-saving assistance. Furthermore, military strategies such as siege, blockade, encirclement, embargo, and other coercive economic measures disproportionately affect civilians, exacerbating suffering and need for humanitarian relief.

Today, it is more important than ever that states ensure humanitarian access to those in need in accordance with their obligations under IHL. Linked to it, their duty to ensure protection for humanitarian personnel, transport and consignments of humanitarian supplies must be upheld to preserve humanity in war.

Granting humanitarian access

The first addressee of obligations concerning humanitarian assistance are the parties to the conflict, which must provide assistance to those under their control. As they are often unwilling or unable to provide such assistance to civilians and persons deprived of their liberty under their control, humanitarian access is crucial for the survival of such persons. As a foundational tenet of IHL, granting humanitarian access is enshrined in customary IHL, built from general practice accepted as law. In the ICRC's Customary Law Study, Rules 55

and 56 codify the obligation of parties to the conflict to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, and ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions. Customary Rules 55 and 56 apply to both international armed conflicts and non-International armed conflicts.

The Geneva Conventions and Additional Protocols include several articles related to granting humanitarian access. Article 23 of GCIV obliges states to grant free passage of “all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party”. Furthermore, consignments of essential foodstuffs, clothing and tonics intended for children, and pregnant and nursing mothers are to be granted free passage. Article 23 is, however, subject to certain conditions. A state may limit passage of consignments if there are serious reasons to fear that the consignment may be diverted from its intended beneficiaries, that control of the consignment may not be effective, or that the consignments might provide a definite advantage to the enemy’s military efforts or economy. This condition is based on subjective judgement of the state and must be considered in good faith. Article 70 of Additional Protocol I builds on Article 23 to allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel in international armed conflicts. While states are entitled to verify the humanitarian and impartial nature of the assistance, prescribe technical arrangements for the practical delivery and restrict relief activities for reasons of imperative military necessity, these restrictions are not unconditional. They must only be exercised temporarily or be geographically restricted. Even if parties may insist that the distribution of humanitarian assistance the passage of which they allow is controlled to ensure that (except for medical assistance) it only benefits to civilians, the **proportionality** principle requires that this does not result in the deprivation of large numbers of civilians of supplies essential to their survival.

In situations of occupation, the Occupying Power has the duty to meet the needs of the population (GC IV Art 55; API Art 69). However, “if a 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” (GC IV Art 59). Relief schemes may be carried out by states or by impartial humanitarian organisations. This article presents an obligation on the occupying power to permit the free passage of consignments. Unlike the other Articles discussed above, GCIV Article 70 does not provide the Occupying power with ground to restrict the humanitarian relief. The right to verify and regulate the humanitarian contents is reserved for Parties through which the humanitarian relief must first pass through.

Although less detailed than in IACs, the rules on humanitarian assistance in NIAC provide a clear framework that matches the general philosophy that humanitarian assistance, while not unconditional, can never be denied arbitrarily, as such denial would amount to starvation, which is strictly prohibited in IHL (CIHL Rule 53). Article 18(2) of Additional Protocol II provides that subject to the consent of the state, relief operations may be undertaken for the civilian populations “suffering undue hardship owing to a lack of the supplies essential for its survival”.

Protecting humanitarian personnel and transport

Humanitarian relief personnel and objects are protected against attack according to the principle of distinction. Within the ICRC's Customary IHL Study, Rules 31 and 32 emphasise that, once a party has consented to humanitarian access according to the rules mentioned above, humanitarian relief personnel and objects used for humanitarian relief operations must be respected and protected in IACs and NIACs. Given their exclusively humanitarian purpose, intentional attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance is listed as a war crime in the Rome Statute (Article 8(b)(iii)). For international armed conflicts, Additional Protocol I Article 71 stipulates that personnel participating in relief actions shall be respected and protected. Furthermore, Articles 12, 15 and 21 provide protections for medical units, personnel and transport, including in occupied territories, where "[t]he Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions". In non-international armed conflict, Additional Protocol II Article 11(1) protects medical units and transport.

Humanitarian assistance: other obligations and prohibitions

Speaking to the seminal idea from which the Geneva Conventions were developed, humanitarian assistance relates to the obligation to collect, respect and care for the wounded and sick (Rules 109-110). Although these rules are designed to help combatants *hors de combat* whereas humanitarian assistance is designed to help the civilian population, the general respect for human dignity, particularly when people are at their most vulnerable, is a common thread.

Humanitarian assistance and related protections are thus intricately linked with other areas of IHL, such as the prohibition of starvation as a method of warfare (API Art 54 and CIHL Rule 53) and the prohibition to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population (CIHL Rule 54), for the purpose of denying them for their sustenance value. Similarly, collective punishment of the civilian population is unlawful (GC IV Art 33) and "shall remain prohibited at any time and any place" (API Art 75(2)(d)).

Humanitarian Assistance is not considered 'interference' in the conflict

The ability for impartial and humanitarian organisations to facilitate relief operations is contingent on the state's consent of such action (GC I-IV Arts 9/9/9/10; Common Article 3), which may, however, not be arbitrarily denied. Relief operations must be strictly humanitarian and must provide relief based on principles of impartiality. While the ICRC is not given unfettered rights to provide humanitarian assistance to affected populations, the organisation is referenced as an example of such organisations that would offer assistance exclusively on this basis. The ICRC also operates on principles of neutrality and independence, further demonstrating that parties to the conflict cannot consider the provision of humanitarian assistance to persons under their control as interfering with their military operations: similar to the entire IHL body of law in general,

the legal framework governing humanitarian assistance already integrate military necessity through realistic rules that can and must apply in armed conflict.

Moreover, in the 1986 Judgement of the Military and Paramilitary Activities In and Against Nicaragua case, the ICJ stated “[t]here can be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law” (para. 242). Although this ruling of the Court speaks to another area of international law, it shows that humanitarian relief ought never to be considered interference in a conflict, or to the detriment of a state. Indeed, the price to pay to deny humanitarian assistance to those needing it most would amount to denying our own shared humanity.

Casebook Resources for Humanitarian Action

1. The Law

Within ‘the law’ section of the casebook, the following pages provide a detailed outline of the relevant law, cases and bibliography:

IHL and Humanitarian Assistance provides details and explanation on the relevant Articles and provisions of the Geneva Conventions and Additional Protocols that govern the rights to humanitarian assistance in addition to the state’s obligation to permit humanitarian assistance.

Civilian Population describes the different protections prescribed to civilians, including those in occupied territories and in the hands of the enemy.

Sick, Wounded and Shipwrecked details the protections of medical personnel, transport, units and material.

2. The Practice

The following case studies can be used to conduct classroom activities and self-directed learning on the following issues:

Access of humanitarian aid and the right for the civilian population to be assisted:

- Case Study, Armed Conflicts in the former Yugoslavia | How does law protect in war? - Online casebook
- Myanmar, Escalation of the Conflict | How does law protect in war? - Online casebook
- Somalia, the fate of Children in the conflict | How does law protect in war? - Online casebook
- Yemen, Naval Blockade | How does law protect in war? - Online casebook
- Yemen, Potential Existence and Effects of Naval Blockade | How does law protect in war? - Online casebook
- Israel/Gaza, Operation Cast Lead | How does law protect in war? - Online casebook
- Israel, Blockade of Gaza and the Flotilla Incident | How does law protect in war? - Online casebook

- Sri Lanka, Conflict in the Vanni | How does law protect in war? - Online casebook
- UN Security Council Resolution on the Conflict in Syria | How does law protect in war? - Online casebook
- ICJ, Nicaragua v. United States | How does law protect in war? - Online casebook (paras. 242 and 243)
- UN, Security Council Resolution 688 on Northern Iraq | How does law protect in war? - Online casebook
- Syria, the Battle for Aleppo | How does law protect in war? - Online casebook
- Yemen , Humanitarian Impact of the Conflict | How does law protect in war? - Online casebook
- Eastern Ukraine, OHCHR Report on the Situation: November 2016 - February 2017 | How does law protect in war? - Online casebook

Obligation of occupying power to accept relief:

- Israel/Gaza, Operation Cast Lead | How does law protect in war? - Online casebook
- Israel, Power Cuts in Gaza | How does law protect in war? - Online casebook

Protection of humanitarian relief goods and personnel:

- Central African Republic/Incidents of Violence Against Humanitarian Organizations | How does law protect in war? - Online casebook
- South Sudan/Attacks on Humanitarian Personnel | How does law protect in war? - Online casebook
- South Sudan: Medical Care Under Fire
- UN Security Council, Resolution 2664 on Humanitarian Exemptions to UN Sanctions Regime | How does law protect in war? - Online casebook

3. A to Z

The following pages provide additional insights on humanitarian action:

Access; Blockade; Civilian Population; Consent; Food; Humanitarian Assistance; Humanitarian Organisations; Medical Objects; Medical Personnel; Objects indispensable to the survival of the civilian population; Protecting Powers; Red Cross Red Crescent Principles; Starvation; Voluntary aid society

4. To go further

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humanitarian law, 2025. Accessed here.

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