

Violations of the Right to Food in Armed Conflicts: The Case of Gaza's Children after October 7, 2023

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Abstract:

The right to access adequate food is recognized as a fundamental human right under international law, particularly within the International Covenant on Economic, Social and Cultural Rights and the framework of International Humanitarian Law (IHL). However, in recent armed conflicts most notably in the Gaza Strip after October 7, 2023 starvation and food blockade have been deliberately used as methods of warfare against civilians, especially children. This article adopts an analytical-descriptive approach to examine the legal dimensions of violations of the right to food during armed conflicts, focusing on the case of Gaza's children. The findings demonstrate that Israel's actions, under Article 54 of Additional Protocol I (1977) to the Geneva Conventions, constitute clear instances of starvation as a method of warfare, amounting to grave breaches of IHL. Consequently, such acts may be classified as war crimes and, in certain circumstances, as crimes against humanity under international criminal law.

Keywords: Right to Food; International Humanitarian Law; Starvation; Gaza's Children; War Crimes.

Introduction

The right to access food is recognized in international law as a fundamental and non-derogable right, protected under numerous international treaties and humanitarian law instruments. Article 25 of the Universal Declaration of Human Rights and Article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) obligate States to create conditions in which individuals can access food in a sustainable and secure manner. The UN Committee on Economic, Social and Cultural Rights, in General Comment No. 12, further emphasizes that States must not only refrain from depriving individuals of food resources but also take the necessary measures to ensure real and effective access to food.

The importance of this right becomes even more critical in armed conflicts, as wars often result in the collapse of vital survival infrastructures, destruction of farms and food sources, disruption of food supply networks, and obstruction of humanitarian access. In this context, International Humanitarian Law (IHL) provides specific mechanisms to protect civilians' access to food, particularly by prohibiting the use of starvation and food blockades as methods of warfare. The most significant provision in this regard is Article 54 of Additional Protocol I of 1977, which explicitly prohibits starving civilians as a method of warfare and grants special protection to objects indispensable to survival—including food, water, agricultural land, and water networks (ICRC Commentary on AP I, Art. 54). This provision establishes an absolute prohibition,

and even military necessity cannot justify attacks on essential survival resources. Some scholars emphasize that the prohibition of starvation in Article 54 is not merely a supplementary rule but forms a core principle of IHL directly derived from the principle of humanity (Hamdi, 2023, p. 82).

Despite these binding frameworks, recent conflicts in Yemen, Bosnia, and Sudan demonstrate that food deprivation—directly or indirectly—continues to be employed as a military strategy. In many cases, sieges, restricted humanitarian access, destruction of water supply networks, and attacks on agricultural land have effectively produced the same impact as deliberate starvation. However, in the scholarly literature on the Gaza crisis, most studies have focused on human or political dimensions of the crisis, and few have conducted a precise legal analysis of events within the framework of Article 54 and IHL principles.

Therefore, a research gap remains: to date, no comprehensive academic analysis has structurally examined the situation of children in Gaza after 7 October 2023 along three axes: the *right to access food* (ICESCR), the *prohibition of starvation under IHL*, and *special international law obligations concerning children*. Existing Persian-language research is largely theoretical or comparative and has not analyzed the Gaza conflict in the context of starvation crimes and international criminal responsibility. Some studies discuss the importance of protecting objects indispensable to survival in the context of sieges (Hamdi, 2023, p. 82), yet these analyses have not been directly applied to Gaza. Others have clarified the legal framework of the right to food, but questions regarding its connection to military blockades or restricted humanitarian access in Gaza remain unaddressed (Ma'refat, 2019, pp. 23–24).

According to reports by UNICEF, WHO, OCHA, and ICRC, indicators of hunger and malnutrition among children in Gaza have increased unprecedentedly after 7 October 2023. UNICEF reports a sharp rise in acute malnutrition among children under five, WHO has reported the destruction or closure of malnutrition treatment centers, and ICRC confirms that restrictions on the entry of food, water, and fuel have rendered many essential survival objects inaccessible (ICRC, 2024). These data indicate that the food crisis is not a result of “natural or inevitable” conditions but stems from a combination of military operations, restricted humanitarian access, and the collapse of critical infrastructure.

Accordingly, this article seeks to address three main questions:

1. Do the events in Gaza after 7 October 2023 constitute a violation of the *right to access food* under international law?
2. Can these actions be classified under the prohibition of starving civilians according to Article 54 of the First Additional Protocol of 1977 and customary IHL rules?
3. Do these events constitute war crimes or crimes against humanity under the Rome Statute?

This study aims to provide a comprehensive and well-documented legal analysis, relying on international legal instruments, official reports, and credible academic sources

Theoretical and Legal Foundations

1.1 The Concept of the “Right to Food” and Its Distinction from the “Right of Access to Food”

The *right to food* in international law derives from two primary sources: human rights law and humanitarian law. Under human rights law, Article 11 of the 1966 Covenant obligates States to create conditions enabling individuals to have access to food in a *sustainable and continuous* manner. The UN Committee on Economic, Social and Cultural Rights, in General Comment No. 12, identifies three dimensions of this right: *accessibility*, *adequacy*, and *sustainability* (Mitousi, 2008, p. 384).

However, an important distinction exists between the two concepts: the *right to food* represents a structural and overarching entitlement, whereas the *right of access to food* refers to the practical and day-to-day realization of this right (Ebrahim Gol, 1999). This distinction is particularly significant for analyzing armed conflicts, where food resources may exist, but physical or economic access is impeded by military barriers. This precisely reflects the situation described by the International Committee of the Red Cross (ICRC) in its reports on recent conflicts and military blockades, including Gaza (ICRC, 2024).

Some scholars emphasize that the realization of the *right to food* during wartime must be analyzed in the context of actual, practical access, as military operations can impede access to food even without physically destroying it (Ebrahim Gol, 1999; Roshan, 2020, pp. 45–46).

1.2 Concurrent Implementation of Human Rights and International Humanitarian Law

The International Court of Justice, in its key rulings—including *Nuclear Weapons* (1996, para. 25) and the *Advisory Opinion on the Legal Consequences of the Construction of a Wall* (2004, paras. 106–113)—emphasized that human rights remain applicable even during armed conflict and can only be derogated in strictly limited circumstances under treaty mechanisms. Accordingly, human rights law (IHRL) and humanitarian law (IHL) operate complementarily, with the provisions of IHL taking precedence only where specific rules for armed conflict apply over general human rights norms (Ghorbannia, pp. 40, 387).

Within this framework, the *right to food* occupies a special position. The CESCR, in General Comment No. 12, underscores that States' obligations regarding the minimum essential content of this right are non-derogable, even in emergency situations (CESCR 1999, paras. 15, 17).

The Convention on the Rights of the Child similarly obligates States, under Articles 6 and 24, to ensure the survival and adequate nutrition of children under all circumstances; the UN Committee on the Rights of the Child reaffirmed this obligation in its statement of 21 May 2025 (Feiz-Zadeh, 2022, p. 145).

Consequently, any deliberate deprivation of food to a civilian population—whether through siege, obstruction of humanitarian aid, or destruction of vital infrastructure—constitutes a simultaneous violation of human rights (right to life, right to health, and right to food) and a breach of IHL. Article 54 of the First Additional Protocol of 1977 categorically prohibits such deprivation, and ICRC commentaries recognize this prohibition as part of customary, non-derogable law.

Therefore, States cannot evade their obligations regarding the right to food under the pretext of wartime conditions. This right benefits from dual protection under both IHRL and IHL, and its violation can give rise to State responsibility and, in certain cases, individual criminal responsibility—particularly where food deprivation predictably results in malnutrition or child mortality.

Article 54 of the First Additional Protocol and the Concept of Objects Essential for Survival

Article 54 constitutes the cornerstone of the prohibition of starvation in IHL. Paragraph 1 prohibits starvation of civilians as a method of warfare. Paragraph 2 provides a detailed list of objects essential for survival, including food, agricultural land, water sources, storage facilities, and vital infrastructure. The ICRC, in its official commentary, states that this prohibition is absolute, and no military necessity can justify attacks on or destruction of these resources (ICRC Commentary, 1987).

Some international law scholars emphasize that the prohibition of starvation is one of the few non-derogable rules in IHL and applies as customary law in both international and non-international armed conflicts (Bellal & Casey-Maslen, 2022).

1.4 Special Obligations Regarding Children

The 1989 Convention on the Rights of the Child obligates States to take all necessary measures to prevent malnutrition and ensure children's health. UNICEF and the Committee on the Rights of the Child have stressed that any obstruction of children's access to food—even in wartime—constitutes a gross violation of State obligations.

Legal sources also recognize that violations of Article 54 concerning children carry heightened gravity, as this group enjoys dual protection under IHL and IHRL (Roshan, 2020, p. 57).

1.5 Criminal Status of the Prohibition of Starvation

The Rome Statute of the International Criminal Court (ICC), in Article 8(2)(b)(xxv), classifies the deliberate starvation of civilians as a war crime. The JICJ has further analyzed that when starvation is part of a policy or widespread attack against a civilian population, it may also constitute a crime against humanity. Based on these instruments, some scholars assert that the large-scale use of starvation is fundamentally incompatible with core humanitarian principles and entails both individual and State criminal responsibility (Hamdi, 2023, p. 82).

2 Starvation as a Method of Warfare

Starving a civilian population is one of the most serious violations of IHL, and in recent decades—particularly with the development and institutionalization of international criminal law—it has been recognized as a criminal act with structural and lasting effects on the survival of populations. Article 54 of the First Additional Protocol of 1977 prohibits the use of starvation as a method of warfare, and Article 8(2)(b)(xxv) of the Rome Statute explicitly includes this act as a war crime. Analyzing this prohibition requires examining three core issues:

1. The status of starvation under international criminal law,
2. Distinguishing between a lawful blockade and a blockade aimed at starving civilians,
3. The role of intent in proving the crime of starving civilians.

2.1 Starvation under Article 8 of the Rome Statute of the ICC

Article 8(2)(b)(xxv) of the Rome Statute classifies the “intentional starvation as a method of warfare” as a war crime in international armed conflicts. The article stipulates that anyone who “intentionally” deprives a civilian population of objects indispensable to their survival commits a war crime. The elements of this crime, as detailed in ICC jurisprudence, include:

1) Existence of deprivation of objects essential for survival

According to the ICRC analysis, such objects include food, water, agricultural products, storage facilities, and water and irrigation infrastructure. Even if food and water physically exist, deliberate obstruction of access satisfies the material element of the crime (ICRC Commentary on AP I, 1987).

2) Intentionality of the deprivation

The Rome Statute does not classify acts of negligence or unintentional measures as war crimes; rather, for the crime of starvation to be established, the deprivation must be carried out deliberately and with specific intent (Article 8(2)(b)(xxv)). According to the Elements of Crimes of the ICC (Element 2), the mental element requires *specific intent* to use starvation as a method of warfare. Mere foreseeability of starvation as a side effect is insufficient; it must be proven that the perpetrator intentionally and knowingly employed starvation to weaken or harm the civilian population. The ICC has consistently emphasized that mere awareness of the natural consequences of conduct is insufficient; direct and purposeful intent to achieve the outcome is required (Rome Statute, 1998, Article 30).

3) Purpose or effect of using starvation as a method of warfare

Under international criminal law, the use of starvation to exert pressure, undermine the civilian population's capacity to resist, or coerce displacement is considered the use of starvation as a “method of warfare” (Dannenbaum, 2018, pp. 372–380). Literature published in the *Journal of International Criminal Justice* analyzes the starvation of civilian populations as a “tool to break resistance” and as a “means to enforce demographic change,” emphasizing the criminal nature of this conduct as a war crime and even as a form of “social torture” (ibid., pp. 381–390).

4) Nexus with Armed Conflict

The commission of a war crime requires that the criminal conduct occurs “in the context of an armed conflict” and with a causal or at least contextual link to it. In other words, the act must be sufficiently connected to the existence of the conflict that it would be inconceivable outside that context (ICC Elements of Crimes, 2011: 21). Food deprivation resulting solely from the natural collapse of public services or structural conditions beyond the control of the parties to the conflict falls outside the scope of the crime of starvation. However, if the deprivation results from a conscious decision, policy, or military action by a party involved in the conflict, the “nexus with the conflict” condition is satisfied (ibid.).

Considering these elements, it can be clearly stated that starvation “is one of the few absolute prohibitions in IHL,” and even military necessity cannot justify it (Bellal & Casey-Maslen, 2022, chap. 14).

2.2 Distinction Between “Lawful Military Blockade” and “Blockade Aimed at Starvation”

A blockade is a traditional instrument of armed conflict and is not inherently unlawful. IHL permits parties to a conflict to restrict enemy access to resources within the framework of legitimate military objectives. However, this legitimacy is conditional on three principles:

1. **Principle of Distinction**

The blockade must target military objectives and forces, not the civilian population. If the effect of the blockade is to deprive civilians of access to food, the blockade loses its legitimacy.

2. **Principle of Avoiding Excessive Harm**

Even if a blockade has a legitimate military objective, the party imposing it must provide humanitarian corridors for civilians to access food and relief. Failure to provide such avenues renders the blockade unlawful.

3. **Prohibition of Starvation**

A blockade must not destroy essential resources or cause starvation among civilians, nor may it be used “as a method of warfare.” Whenever a blockade results in the destruction of objects essential for survival or systematically prevents the entry of necessary aid, it is considered “inherently unlawful,” even if its claimed objective is military (Bellal & Casey-Maslen, 2022).

Therefore, a lawful blockade is conducted with a specific military aim, facilitates the exit of civilians, ensures their access to food and basic needs, and does not obstruct humanitarian assistance; its effects are limited and controllable. In contrast, an unlawful or starvation-oriented blockade is implemented with the aim or effect of depriving civilians of food, blocks humanitarian aid, targets essential infrastructure, and produces foreseeable and widespread consequences. The ICRC emphasizes that any blockade causing civilian starvation, even if claimed to be military in purpose, is “contrary to Article 54 and customary law” (ICRC, *IHL on the Protection of Civilian Populations in Sieges*, 2024).

2.3 The Element of “Intent” in the Crime of Starvation

Intent is the key element distinguishing between an unlawful blockade and starvation as a war crime. The Rome Statute specifies that to establish criminal responsibility, it must be proven that the perpetrator “knowingly and deliberately” deprived a civilian population of objects essential for survival (Rome Statute, Article 8(2)(b)(xxv)).

Analyzing the role of intent in the crime of starvation involves several key indicators:

1. **Awareness of the Natural Consequences of Conduct**

In assessing intent, awareness of the “natural and foreseeable” consequences of the conduct plays a central role. This means that if a party to the conflict can reasonably foresee that actions such as blocking humanitarian routes, destroying water and electricity infrastructure, or preventing the entry of food and medicine will lead to widespread starvation among civilians, such awareness can strongly indicate criminal intent (Dannenbaum, 2018: 375–380). The ICRC also emphasizes that, in practice, intent is often inferred from the nature, severity, and outcomes of military actions, rather than solely from the perpetrator’s explicit statements (ICRC, *Customary IHL Study*, Rule 53).

2. **Systematic and Continuous Conduct**

Isolated, sporadic, or random acts may not suffice to establish criminal intent, especially if they can be attributed to accidental factors or operational errors. In contrast, systematic, repeated, and coordinated deprivation of essential resources, whose effects on the nutrition and survival of the civilian population are clearly foreseeable, constitutes strong evidence of intent to use starvation as a method of warfare (JICJ doctrinal writings, e.g., Dannenbaum, 2018: 382–388). Such conduct, particularly when accompanied by policy formulation, issuance of orders, and continued implementation, significantly undermines any defense based on “isolated mistakes.

3) Indirect and Conditional Intent

In international criminal law, intent is not limited to direct intent (the conscious targeting of a specific outcome); forms of indirect or “conditional” intent can also satisfy the mental element. If a

party to the conflict knows that conducting military operations or implementing blockade measures will inevitably or with a very high probability expose the civilian population to starvation, and yet consciously continues those policies, this constitutes a form of intent emphasized in analytical literature related to the Court (Werle & Jessberger, 2020: 263–270). In this approach, the deliberate acceptance of the risk of starvation at a level where the outcome is “practically certain or highly probable” suffices to meet the standard of intent.

4) Circumstantial Evidence in Establishing Intent

The intent element in the crime of starvation is rarely established directly through confessions or explicit documents; rather, it is inferred from a set of circumstantial and behavioral evidence, including:

- Issuance of official orders restricting humanitarian aid,
- Prevention of fuel and food entry,
- Destruction of vital infrastructure,
- Failure to respond to UN humanitarian requests.

All of these can contribute to proving intent to use starvation as a method of warfare. Therefore, intent in the crime of starvation is typically inferred from ongoing actions and the inevitable consequences of military operations.

Summary:

1. Deliberate starvation, under Article 8 of the Rome Statute, constitutes a war crime, and its prohibition is absolute.
2. A lawful blockade is only legitimate if it does not inflict fundamental harm on civilians and does not obstruct access to food or humanitarian assistance.
3. The intent element is central to this crime and is usually established through behavioral evidence, predictable consequences, and the systematic nature of military actions.
4. Legal analysis and ICRC documentation emphasize that any blockade causing widespread starvation is, by itself, outside the bounds of legitimacy.

3 Case Study: The Situation of Children in Gaza After 7 October 2023

3.1 Field Events and Nutritional Status of Children in Gaza

Since the onset of large-scale military operations in the Gaza Strip after 7 October 2023, children in the region have faced one of the deepest and most extensive contemporary nutrition crises. Data published by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) indicate a sudden and unprecedented rise in acute and severe malnutrition rates, particularly among children under five (Mehdi, 2009, 358). According to the WHO report in February 2024, over 15.6% of children under two in northern Gaza experienced acute malnutrition, and about 3% suffered from severe malnutrition—a sharp increase compared to the pre-conflict period, when acute malnutrition rates were below 2% (WHO, 2024). The WHO described this situation as an “immediate threat to child survival.”

UNICEF, in its repeated reports in 2024 and early 2025, indicated that more than one million children in Gaza were completely deprived of access to food, safe water, and healthcare for weeks or even months (UNICEF, 2025). The agency emphasized that the combination of “blockade, widespread destruction of infrastructure, and prevention of emergency aid entry” has led to a crisis resulting directly in a severe rise in malnutrition, hunger-related illnesses, and weakened immune systems among children (UNICEF, 2025).

Simultaneously, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that between December 2024 and January 2025, thousands of children were registered for treatment for malnutrition, while the capacity of healthcare facilities was severely reduced due to bombing, destruction, and forced evacuations (OCHA, 2024).

3.2 Blockade of Food and Humanitarian Aid Routes

One of the key factors exacerbating the nutritional crisis among children has been the systematic blockage or restriction of humanitarian aid routes. According to OCHA reports, from early 2025, on many days, the entry of trucks carrying food, water, and medicine into Gaza reached “zero” or near zero, and some main crossings remained completely closed for over a month (OCHA, 2025). UNICEF also confirmed that, as of 2 March 2025, the passage of humanitarian aid shipments had almost entirely stopped, leaving children directly deprived of access to essential assistance (UNICEF, 2025).

These data indicate that the food crisis in Gaza is not merely the result of a lack of resources, but rather the consequence of restricted and blocked access to available resources. In multiple instances, trucks carrying food and medical supplies were halted at borders and denied entry; humanitarian organizations have described this situation as a “systematic obstruction of humanitarian aid” (Human Rights Watch, 2024).

3.3 Analysis of Humanitarian Law Violations (Violation of Article 54 of the First Additional Protocol)

From the perspective of international humanitarian law, the situation recorded in Gaza meets the essential elements of the prohibition of “starvation as a method of warfare.” First, vital objects for the survival of civilians—including food, water, fuel, and medicine—have become practically inaccessible to children. Second, this situation is the direct result of military actions, aid blockages, and restrictions on the entry of goods. Third, the effects of these actions on children’s survival have been extensive, severe, and entirely foreseeable. These elements correspond precisely to those enumerated in Article 54 of the First Additional Protocol of 1977 for establishing violations of the prohibition on starvation (ICRC, Commentary on AP I).

WHO reports have repeatedly noted that the destruction of farms, suspension of fuel imports—which play a vital role in water supply and bread production—closure of bakeries, and shutdown of malnutrition treatment centers have systematically dismantled the survival network for children (WHO, 2024). Consequently, children in Gaza have been subjected to structural deprivation of vital objects for survival, constituting a clear violation of both customary and treaty-based humanitarian law.

3.4 Special Status of Children under Humanitarian Law and the Convention on the Rights of the Child

Children hold a dual status under international law: both as civilians and as a particularly vulnerable group. The 1989 Convention on the Rights of the Child obliges states, even in situations of armed conflict, to actively ensure children’s rights to life, health, and nutrition (CRC, Arts. 6, 24). The UN Committee on the Rights of the Child, in its official statement on 21 May 2025, described the situation of children in Gaza as a “flagrant example of starvation caused by blockade” and emphasized that children are not merely secondary victims but have been “the direct targets of the effects of the blockade” (UN CRC Committee, 2025).

3.5 Child Deaths Due to Malnutrition and Their Legal Significance

Reports from international organizations indicate that the malnutrition crisis in Gaza has also resulted in child deaths. In its July 2025 report, WHO stated that in a single month, 74 deaths were registered due to malnutrition, 24 of which were children under five. UNICEF and WHO, in separate reports, described the situation as “famine-like” and warned that thousands of children were at imminent risk of death (WHO, 2025b; UNICEF, 2025a).

Human Rights Watch also attributed the direct deaths of 26 children at Kamal Adwan Hospital to hunger and malnutrition-related complications (Human Rights Watch, 2024). These evidences, together with OCHA reports on the collapse of malnutrition treatment centers and blocked access routes, reinforce the direct link between the obstruction of aid and child mortality (OCHA, 2025).

4 Legal and Criminal Implications

A review of the available evidence regarding the deprivation of children in Gaza from food and humanitarian aid indicates that the actions of the party to the conflict may give rise to both the international responsibility of the State of Israel and individual criminal responsibility at command levels, from the perspective of both international humanitarian law and international human rights law. This section examines the legal implications at two levels: “state responsibility” and “individual criminal responsibility.”

State Accountability of Israel before the International Court of Justice (ICJ)

According to Article 1 on state responsibility for preventing violations of jus cogens norms and erga omnes obligations, any state whose actions or omissions result in the starvation of civilian populations is accountable to the international community. The prohibition of starvation as a method of warfare is a customary, absolute, and non-derogable rule, recognized in Article 54 of the First Additional Protocol as well as in ICRC interpretations as part of customary international law (ICRC, 2016).

In multiple ICJ cases, such as *Bosnia and Herzegovina v. Serbia*, the Court has emphasized that states have obligations to prevent, halt, and refrain from participation in violations of fundamental norms, including the right to life and the prohibition of international crimes. In the context of the Gaza crisis, reports by WHO, UNICEF, and OCHA indicate that actions such as the blockade, prevention of food and medicine entry, and the collapse of water and sanitation systems had foreseeable effects that led to child deaths (WHO, 2025a; UNICEF, 2025b; OCHA, 2025). From this perspective, the State of Israel could face two claims before the ICJ:

1. **Violation of International Humanitarian Law Obligations**

Including the prohibition of starvation (under the First Protocol), failure to guarantee access to humanitarian assistance, and damage to objects essential for survival (Omidy, 2023).

2. **Violation of International Human Rights Obligations**

Specifically, Article 6 of the Convention on the Rights of the Child (right to life) and Article 24 (health and nutrition), which states are obliged to respect even during armed conflict (UN CRC Committee, 2025).

Under the rules of state responsibility (ARSIWA), if state conduct results in severe harm and child fatalities, legal consequences include compensation, cessation of the unlawful conduct, and guarantees of non-repetition.

4.2 Individual Criminal Accountability before the International Criminal Court (ICC)

Article 8(2)(b)(xxv) of the Rome Statute classifies the “deliberate deprivation of civilians of objects essential for survival” as a war crime (ICC, 2011). According to documented reports by WHO and HRW, child deaths due to malnutrition occurred in Gaza and were directly linked to aid blockages, destruction of vital infrastructure, and lack of access to water and food (Human Rights Watch, 2024; WHO, 2025b). This evidence satisfies the material element of the crime.

The **intent element** is also applicable in this case, as the effects of the blockade and the prevention of food entry were entirely foreseeable, and the persistence of restrictive measures indicates awareness of the consequences. Some legal scholars further assert that intent in the crime of starvation is generally inferred from the “natural and inevitable results of actions” (Bellal & Casey-Maslen, 2022).

Accordingly, commanders and political authorities who issue orders that result in child deaths due to food deprivation may be prosecuted for war crimes of starvation or crimes against humanity (inhumane acts).

4.3 Role of the International Community in Prevention under Jus Cogens Norms

The prohibitions against starvation, genocide, torture, and mass killings are jus cogens norms. Under these rules:

- No state may aid, support, or facilitate conduct that violates these norms;
 - All states are obligated to act to stop unlawful conduct;
 - Silence or inaction by states in the face of jus cogens violations may constitute indirect participation. In the Gaza context, given evidence such as child deaths from malnutrition, the international community's obligations are not minimal but include:
1. **Duty to Prevent** – As in the preventive mechanisms applied in *Bosnia v. Serbia*, where the ICJ stated that states must take measures to prevent harm.
 2. **Duty to Refrain from Assisting Unlawful Conduct** – States cannot support the party committing jus cogens violations through military, political, or logistical aid.
 3. **Duty to Investigate and Follow Up** – The international community must utilize investigative mechanisms (COIs), truth commissions, or ad hoc tribunals to address violations.

Conclusion and Recommendations

The review of the situation of children in Gaza following October 7, 2023, indicates that the widespread deprivation of food, safe water, and medical services resulted from a combination of actions that directly or indirectly affected the survival of civilians. Data from WHO, UNICEF, OCHA, and HRW show a rapid increase in malnutrition, multiple registered deaths from starvation, and the collapse of healthcare capacity. These findings, together with the blockade of humanitarian aid, destruction of vital infrastructure, and the ongoing siege, provide a clear picture of systematic violations of humanitarian law.

The study demonstrated that “starvation of civilian populations” constitutes an absolute prohibition under international humanitarian law and, as a jus cogens norm, admits no military justification. Article 54 of the 1977 First Additional Protocol explicitly prohibits deprivation of objects essential for survival without exception. ICRC interpretations further emphasize that any conduct that predictably results in civilians being deprived of food constitutes a serious violation of IHL and qualifies as starvation. Based on the available evidence, the actions affecting children in Gaza during the period under study meet these criteria. From the perspective of international criminal law, it was confirmed that acts related to food deprivation can be assessed as the war crime of “starvation” under Article 8 of the Rome Statute. The core element of this crime is the intentional deprivation of items essential for survival and awareness of its consequences. The increase in child deaths from malnutrition, combined with the blockade of food aid and destruction of food and water supply infrastructure, confirms that these outcomes were entirely foreseeable to the perpetrators. This foreseeability serves as strong evidence of the mens rea element of the crime.

From a human rights perspective, the situation of children in Gaza constitutes a clear violation of the “right to food,” the right to health, and the right to life—rights explicitly guaranteed in foundational instruments such as the Convention on the Rights of the Child. The UN Committee on the Rights of the Child, in its statement of 21 May 2025, warned that children in Gaza were systematically deprived of food and care, putting their lives at risk. The overall findings indicate that children, as the most vulnerable group, bore the heaviest burden of the crisis and were the primary victims of restrictive policies.

Based on these findings, several key recommendations are proposed to enhance the protection of civilians—particularly children—during armed conflicts:

1. **Strengthen International Monitoring Mechanisms:** The United Nations should establish a mechanism similar to the “Monitoring and Reporting Mechanism on Grave Violations against Children” (MRM) in conflicts, but with a specific focus on starvation, aid blockages, and food deprivation. Such a mechanism should report periodically to the Security Council and have field verification capacity. Furthermore, structured cooperation among WHO, WFP, UNICEF, and UNRWA should be reinforced to document child deaths from malnutrition, providing reliable data for judicial accountability.

2. **Develop International Enforcement Measures:** Acts that lead to starvation should face prompt and binding responses from the Security Council, including resolutions under Chapter VII that ensure the creation of humanitarian corridors, uninterrupted aid delivery, and the protection of food infrastructure. Additionally, the ICC Office of the Prosecutor should actively pursue investigations of food deprivation as a war crime, based on its subject-matter jurisdiction. Strengthening independent investigative mechanisms (such as truth commissions or Fact-Finding Missions) can also help collect evidence usable in courts.
3. **Strengthen Domestic Legal Frameworks:** Many states lack explicit laws prohibiting starvation or criminalizing related conduct. Enacting domestic legislation aligned with IHL would provide an effective mechanism for implementing international obligations and enable states to prosecute domestic or foreign perpetrators under national jurisdiction. This is particularly crucial for child protection, as children's rights are often vulnerable to domestic enforcement gaps.

In general, the review of this crisis demonstrates that the international community has failed to prevent food deprivation and the deaths of children in Gaza. To prevent the recurrence of such events, the international legal system must be strengthened with more robust monitoring tools, effective enforcement mechanisms, and efficient domestic legislation. Protecting the lives of children in conflict is a test of the will and effectiveness of the international order—a test whose results in Gaza indicate the need for fundamental reforms.

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