

The Right to Humanitarian Exigency as a Human Right under International Law

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Article History	Abstract
Original Research Article	<p><i>Hostility has generated unabated humanitarian crises threatening life and human dignity worldwide. The experience of the First and Second World Wars caused immense suffering to human beings, particularly the civilian population. The continuous practice of cutting off relief materials during emergencies constitutes a gross deprivation of human rights and a breach of humanitarian law. The Rome Statute, the Geneva Conventions, and other instruments are not consonant with this insidious method employed by state actors in repressing their opponents; rather, they condemn it in its entirety. This research adopts the doctrinal method, and it has been discovered that the practice of siege is traceable to antiquity, where strength was measured by the ability of a warring party to lay siege upon its opponent. Contemporary times have not improved significantly in terms of abandoning this archaic and unconscionable method of warfare. The practice of disallowing relief materials and other forms of humanitarian access has been clearly observable in modern warfare — in Syria, Gaza, Yemen, and elsewhere. The right to life, the right to food, and the right to health are fundamental exigencies in any armed conflict and must not be rendered inaccessible to any of the warring parties. The aim of this research is to cultivate a culture of human dignity and conservation upon which humanity depends, and to underscore the transient nature of conflicts by promoting understanding and diplomacy as guiding principles in hostilities. This research recommends the urgent need for humanitarian access to war-torn zones to save lives and protect the civilian population, and further recommends that the various human rights bodies and humanitarian protection agencies activate their powers to ensure that offenders and violators of humanitarian law are held to account.</i></p> <p>Keywords: Humanitarian Law, ICCPR, Human Rights, International Law.</p>
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Introduction

Modern armed conflicts have consistently disregarded the rules governing armed conflict during hostilities. The inevitable consequence is the unwarranted suffering of civilians and those hors de combat, accompanied by the collapse of essential services and infrastructure. Situations calling for humanitarian response arise on a daily basis.

The principles of proportionality, necessity, distinction, and chivalry, as upheld by the International Committee of the Red Cross and Red Crescent (ICRC) for the protection and preservation of human rights, are in most cases sidelined. In every conflict involving either international or non-international armed conflict, the suffering of the innocent and those hors de combat is invariably severe. A human

rights-based approach is therefore a necessity; binding human rights norms must apply. It is obligatory that in every conflict, the right to life, the right to health, and the right to dignity be upheld as entitlements that generate legal rules for humanitarian assistance. Humanitarian exigencies are fundamental to the application of human rights law in humanitarian situations.

Henri Dunant, in his ‘A Memory of Solferino,’ reflected on the pressing need for emergency relief following the mass casualties of the Battle of Solferino in 1859, which claimed thousands of soldiers and left countless others in appalling conditions. The urgency of humanitarian response arose from his observation of numerous dead bodies left in

ditches, fields, ravines, and mass graves. He was also deeply moved by the plight of the wounded soldiers, the absence of relief materials, and the deplorable state of medical care.

Adequate humanitarian response in times of armed conflict is therefore a right. Dunant did not condemn armed conflict per se, but was profoundly concerned about humanity and the treatment meted out to those caught in it, which he felt was unworthy of them as human beings. It was the grim aftermath of the battlefield that inspired Dunant to establish the International Committee of the Red Cross (ICRC) as an emergency response mechanism for casualties of any form of conflict.

The Concept of Humanitarian Exigency

Wars are the most devastating force that has driven the human race into a state of necessity and desperation. In such situations, there is always an urgent need for immediate assistance to preserve life and dignity. The basic necessities of life — food, medical care, housing, and shelter — become difficult to access owing to the violence associated with war. Humanitarian relief is an activation of the protection of human rights. Exigencies are reflections of a compelling human necessity arising from situations that are precarious to human survival.

The exigencies that underpin this concept encompass the following:

- Humanitarian assistance delivery
- Protection of civilians
- Provision of food and shelter
- Provision of medical relief
- Evacuation of vulnerable persons to safety

These humanitarian supplies apply not only during international armed conflicts but also in situations of non-international armed conflict.

The Geneva Conventions of 1949 and their Additional Protocols of 1977 provide that:

- Parties to a conflict must allow relief materials to reach the victims.
- Civilians must be protected during conflicts.
- The wounded and sick must receive medical care when necessary.

The general principles applicable in such situations may be summarized as follows: urgency, necessity, humanity, impartiality, and protection. These are the basic rules of engagement to which all parties to a conflict must faithfully adhere.

Legality in International Humanitarian Law

There are firm legal foundations in humanitarian law that make the obligation to provide humanitarian relief binding on all parties to hostilities. The Geneva Convention¹ itself is a central legal foundation of humanitarian law. Article 3 of the Convention provides for minimum protections in non-international armed conflicts. The Convention extends its reach to situations of civil violence and also regulates the conduct of civil wars for the protection of human lives. The rationale behind this is that minor conflicts, if not properly managed, can escalate into matters of global concern. Human lives are sacrosanct, whether within a territory or beyond its borders. Article 3 is now recognized as customary international law and is therefore binding on states that may not even have ratified the Conventions.

Article 3 prohibits the following:

- Murder, torture, cruel treatment, hostage-taking, degrading treatment, and extrajudicial execution. These provisions are binding on both state actors and non-state actors.

Article 3, as applicable to international armed conflicts, further provides that where civilians lack essential supplies, relief operations must be undertaken. Humanitarian consignments must not be obstructed by any of the warring parties.

This treaty law serves to alleviate human suffering during hostilities. Under customary international law, which international humanitarian law reinforces, Rule 55 of the ICRC Customary IHL Study² requires all parties to a conflict not to impede humanitarian relief from reaching civilians or the vulnerable during hostilities, and those providing such relief must also be protected from the dangers of war.³

Humanitarian Exigency as a Human Right

Humanitarian relief is a human right. Relief in times of emergency is a catalyst for human survival; it protects the human dignity and personal liberty of individuals from erosion, as a testament to the inherent value and worth of every human being. Human dignity forms the bedrock of human rights ethics, by virtue of which individuals must be protected against degradation and abuse, irrespective of race, gender, or ability. The right to freedom, security, and

¹Article 3 of the Geneva Convention.

²Henckaerts, J., et al. Customary International Humanitarian Law, Vol. 1. Cambridge University Press, 2005, Rules 55–56.

³Ibid.

the basic necessities of life — such as food, shelter, and freedom from all forms of oppression and discrimination — are all enshrined in the United Nations Universal Declaration of Human Rights since 1948 and must be protected at all times, whether in peace or in war. Human rights are universal, inalienable, indivisible, interdependent, and non-discriminatory; therefore, any breach of these rights must be met with humanitarian response in order to restore human dignity.

The Rights Connected to Humanitarian Exigencies

Several human rights norms are directly connected to humanitarian exigencies. The denial of these rights creates life-threatening conditions. The following are to be considered.

(a) The Right to Life

Everyone has a right to life, and no one shall be intentionally deprived of it.⁴

The International Covenant on Civil and Political Rights (ICCPR) situates the inherent right to life as non-derogable.⁵

Freedom from degrading and inhuman treatment is prohibited under the same Covenant.⁶

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a legally binding United Nations treaty that provides, among other things, the right to adequate health and social security.⁷

The United Nations Convention Against Torture (UNCAT) prohibits torture, whether physical or mental, inflicted as a form of punishment regardless of any offence committed. It also condemns in the strongest terms the use of torture in all circumstances, including war or public emergencies.⁸

It is deeply regrettable that in every armed conflict, human lives are invariably treated as pieces on a draughts board — used as instruments by the players. Each opposing side strives to overcome its adversary by focusing on attrition⁹ and tactical manoeuvring, typically with the aim of eliminating enemy forces.

The metaphor implicit in this concept is that of a chessboard representing a confined and defined battlefield, where forces are positioned and manoeuvred in order to overpower their adversaries and prevail. Such victories are always predicated on the ability of the winning party to subdue its opponents.

Were it possible, the outlawing of war would provide the world with the peace it seeks. It must be noted that soldiers at war are not natural enemies; rather, circumstances have brought them into conflict with one another. Human rights must be observed and protected in war as they are in peacetime. The destruction of lives is the defining feature of war, and victory is measured by superiority on the battlefield. Nevertheless, adherence to the laws of human rights and dignity — including the provision of necessary humanitarian assistance for those in need and suffering in battle zones — is a cardinal requirement of humanitarian law.

(b) The Right to Health

This is another right directly connected to humanitarian exigencies in all armed conflicts. Article 12 of the ICESCR provides that the highest attainable standard of health is a right to which all persons are entitled, including during armed conflicts.¹⁰ All combatants and non-combatants in war zones are to receive the level of medical care consistent with their condition. Care providers must ensure that victims are treated with dignity and without delay. The wounded and the sick are to receive adequate medical attention when necessary, and humanitarian care must be provided promptly.

The right to an adequate standard of living¹¹ encompasses access to sufficient food, water, housing, and medical care. Any shortage of these provisions in armed conflict constitutes a violation of humanitarian law.

The Nexus between International Humanitarian Law and International Human Rights Law in War Situations

Both international humanitarian law (IHL) and international human rights law (IHRL) are applicable during hostilities. Both bodies of law come into operation for the sake of humanity, whether in peacetime or wartime; human rights treaties apply in both situations and to all parties at war.

Conceptually, humanitarian law governs the conduct of belligerents during armed conflicts and limits the effects of hostilities by protecting those who are no longer participating in the conflict and by ensuring that necessary assistance is provided to the vulnerable. It draws its origins from the Geneva Conventions and the Hague Regulations. Human rights norms provide relief and guarantee human dignity at all times, drawing on two major human rights treaties — the ICCPR and the ICESCR — as well as other

⁴Section 33(1) of the Nigerian Constitution (1999), as amended.

⁵Article 6, ICCPR.

⁶Article 7, ICCPR.

⁷Article 12, ICESCR.

⁸UN General Assembly Resolution 39/46, adopted 10 December 1984.

Article 1 of the Convention Against Torture (CAT).

⁹Peterson, Cole. 'Clearing the Air: Taking Manoeuvre and Attrition out of Strategy.' *Infinity Journal*, Vol. 2, Issue No. 3, 2012, pp.15–19.

¹⁰ICESCR 1966, Article 12.

¹¹ICESCR, Article 11.

regional human rights conventions, which support both IHL and IHRL as indispensable instruments for the protection of human dignity and the prohibition of oppressive conduct.

Humanitarian law applies during armed conflict; human rights law applies in both peace and conflict, as noted above. Another distinction between the two is that humanitarian law is binding principally on states and armed groups, while human rights law is concerned primarily with the state. Humanitarian law protects civilians, prisoners of war, the wounded, and non-combatants, while human rights law protects every person within the jurisdiction of a state.

The right to life and human dignity is enforced by both bodies of law. Humanitarian law specifically emphasizes the prohibition of the killing of civilians during armed conflicts and prohibits all forms of torture, inhuman treatment, and other degrading treatment. International humanitarian law must address the gaps in compliance with human rights obligations in war situations; humanitarian assistance is therefore the essential response to any conflict.

Siege and its Effects on Conflicts

One of the most brutal tactics of warfare is the institution of a siege against an opponent, typically with a view to compelling a swift surrender. This constitutes a violation of the law of war and a violation of human rights. The practice predates the Geneva Conventions.

The earliest forms of siege are traceable to the dawn of human civilization. The Bible records a number of sieges, among the most notable of which are:

- The siege of Jericho¹²
- The siege of Samaria¹³
- The Assyrian siege of Jerusalem¹⁴
- The siege of Thebez¹⁵

In Islam, sieges were also employed. Notable examples include:

- The siege of Ta'if (630 CE)
- The siege of Banu Qurayza (627 CE)
- The siege of Shi'b Abi Talib (617–619 CE)

Although the ancient world recognized the siege as a necessary instrument of warfare, the treatment of populations after hostilities was also a matter of concern.

¹²Joshua 6:1–20, Holy Bible.

¹³2 Kings 6:24–33; 7:1–20, Holy Bible.

¹⁴2 Kings 18:13–37, Holy Bible.

¹⁵Judges 9:50–53, Holy Bible.

¹⁶Deuteronomy 20:19–20.

¹⁷See generally the Qur'an, Hadith, and classical Islamic scholarship; see also Sahih Muslim 1731(a)(b) – The Book of Jihad

The Israelites addressed this through the words of the Prophet Moses:

“When you besiege a city for a long time, in making war against it to capture it, you shall not destroy its trees by wielding an axe against them. You may eat from them, but you shall not cut them down; for is the tree of the field a man, that it should be besieged by you?”¹⁶

In Islam, although sieges were permitted, there was a prohibition against excessive killing, against cutting off food supplies during a siege, and against targeting women, children, and non-combatants. Methods such as burning, flooding, or the widespread destruction of property were also discouraged.¹⁷

The ancient world thus recognized the importance of humanitarian consideration as an ameliorating element in warfare, providing specific instructions on what steps were to be taken to sustain life after hostilities. This stands in sharp contrast to contemporary times, where entire towns in Syria were blockaded — with humanitarian supplies also cut off — to the point where there was no food, fuel, or medical care for extended periods, leading to acute starvation. The severity of the siege was tending towards a serious breach of humanitarian law.¹⁸ Malnutrition among children and adults became extremely severe. Humanitarian personnel, the United Nations, the ICRC, and the Syrian Arab Red Crescent were all prevented from rendering assistance to the besieged population. Human Rights Watch urged that the besieged areas of Syria must be granted urgent humanitarian access.

According to Nadim Houry,¹⁹ the Deputy Middle East Director of Human Rights Watch:

“The suffering of Madaya should serve as an urgent reminder that the people in the besieged areas of Syria are desperate for food, shelter, and healthcare. Access to besieged communities should be a test of the sincerity of the warring parties, who say they will enter into genuine negotiations later this month.”²⁰

The use of starvation as a weapon of warfare is prohibited under humanitarian law²¹ and equally violates the Rome Statute. The humanitarian situation in Gaza deteriorated

and Expeditions.

¹⁸Human Rights Watch, 2016.

¹⁹See World Humanitarian Summit, 2016.

²⁰*Ibid.*

²¹Rule 53 of Customary International Humanitarian Law. See also Article 54, Additional Protocol I, Geneva Convention.

further with the conflict involving the State of Israel, where food, shelter, healthcare, and water were blocked from entering Gaza, rendering conditions for the inhabitants of the besieged territory wholly unbearable.

The revocation of approximately 37 licences granted to international NGOs triggered severe humanitarian consequences for many Palestinians who had been heavily dependent on those organizations. To this day, the Palestinian healthcare system remains critically strained by years of conflict, damage, and medical shortages, leaving the population vulnerable to disease and precarious living conditions — a violation of Article 54 of the Geneva Conventions. The humanitarian crisis in the Gaza Strip and the occupied West Bank has been a matter of grave concern among humanitarian NGOs, particularly given that approximately 1.6 million people were in a state of acute daily need.²² The blocking of the 37 aid organizations from operating in Gaza has further worsened conditions for its inhabitants. According to the United Nations: ‘By blocking aid, Israel is worsening life-threatening conditions and heightening potential criminal responsibility for its leaders.’

“Banning life-saving organizations from operating in Gaza marks a new phase in a policy that renders life vulnerable for a population already devastated by conflict.”²³

“This strategy will create conditions that force Palestinians into chronic deprivation, threatening their very survival as a group, and further violates the Genocide Convention. It must stop.” The statement further added: “The ban is not an isolated act, but part of a systematic assault on humanitarian operations in the occupied Palestinian territory, and another step in the deliberate dismantling of Gaza’s lifeline.”²⁴

The continued blockade of humanitarian relief to the inhabitants of Gaza is a clear demonstration of a genuine humanitarian emergency, in respect of which enforcement through the relevant bodies is essential. The United Nations Human Rights Committee, regional human rights courts, and the International Criminal Court have all demonstrated a willingness to ensure that the rules are strictly upheld. The Rome Statute²⁵ of the ICC has classified the intentional starvation of civilians and other vulnerable groups as a war crime. Humanitarian relief must be permitted where civilians lack essential supplies,²⁶ and prolonged

deprivation violates the rights to health, adequate living conditions, and dignity.²⁷

As matters stand today, Gaza presents a compelling case for urgent humanitarian exigency.

The Biafran War and Humanitarian Obstacles

The Nigerian Civil War, which lasted from 1967 to 1970, was a non-international armed conflict; nonetheless, humanitarian law was fully applicable. The federal government, in its determination to suppress the insurgency of the separatist forces, resorted to the use of brutal force and weaponized food as a principal instrument of war, thereby creating a humanitarian crisis that claimed the lives of over two million people through the deliberate blockade of essential daily needs such as food and medical supplies. The Nigerian government also imposed a strict naval blockade along the eastern border with Cameroon, preventing relief supplies from entering Biafran territory — a violation of humanitarian law for which, in principle, legal action ought to have been taken after the war, although no available record indicates that this ever occurred. The most densely populated area of Biafra was inhabited by the Igbo people of the eastern region. The federal government imposed a strict restriction on the Uli Airstrip, which had served as a major channel for the delivery of relief materials during the early part of the war. The coastal oil facilities in Port Harcourt were captured by the federal government, cutting off Biafran access to the sea. In 1969, the government also banned the Red Cross from delivering aid to Biafra.²⁸

Challenges to Humanitarian Exigencies as a Human Right

A major challenge in the area of humanitarian exigencies is the absence of a precise legal definition of the concept. There may not be an exact definition of ‘exigency’ in humanitarian law; rather, the term ‘assistance’ provides a more familiar framework for understanding the obligation to provide basic necessities to those affected by armed conflict — necessities such as food, medical care, safe water, clothing, and the like — to be supplied with the assistance of aid providers.

Both international humanitarian law and international human rights law, while intended to secure the provision of the materials necessary to preserve human life during hostilities, are routinely disregarded by states in conflict. Some states covertly suspend those provisions that impose adverse obligations upon them. For instance, warring parties with superior armed forces may secretly commit

²²<https://www.who.int/news/item/19-12-2025>. WHO.

²³<https://www.ohchr.org/en/press-release/2026/01/Israel-ban-37-aid-groups-makes-life-unbearable-for-genocide-survivors>.

²⁴Ibid.

²⁵Rome Statute of the ICC, 1998, Article 8(2)(b)(XXV).

²⁶Additional Protocol I to the Geneva Conventions, Article 70.

²⁷ICESCR, Articles 11–12.

²⁸https://en.wikipedia.org/wiki/Nigerian_civil_war.

acts of genocide against their opponents, thereby violating the rules of the Geneva Conventions despite being party to those treaties. The atrocities carried out by the State of Israel against Palestinians in the Gaza Strip have, in many assessments, amounted to acts of genocide. The principle of proportionality was disregarded, despite being a fundamental criterion in every armed conflict. The Geneva Conventions explicitly lay down the rules of engagement in every conflict, and a violation is tantamount to a breach of the law and of human rights. Yet humanitarian concerns remain acute throughout hostilities — with emergencies resulting from displacement, hunger, and disease being defining features of armed conflict — while enforcement against defaulters remains irregular and inconsistent.

When considering the use of prohibited armaments, one notes the frequency with which superior powers attack their rivals and subsequently eliminate all evidence so as to evade sanction by the regulatory bodies. Worst of all is the selectivity and discriminatory approach of human rights committees and international criminal courts in prosecuting war crimes. This suggests that it is the powerful states — which are themselves predatory in nature — that deny access and restrict the movement of aid from territories under their occupation, under the guise of non-interference and sovereignty, and that evade accountability with impunity.

Powerful states are also able to undermine the provisions of the Geneva Conventions and all the additional protocols and escape consequences, owing to weak enforcement mechanisms within international bodies. Yet another challenge is the security threat surrounding armed conflicts in the contemporary world, where aid workers are endangered and sometimes directly targeted. Many have been killed, kidnapped, or tortured in numerous conflict situations. The conflict in northern Nigeria is a stark illustration of this, as the Islamic extremist group Boko Haram has abducted aid workers in significant numbers.

In 2024, humanitarian workers recorded the worst attacks on record. Gaza alone witnessed over 900 deaths at aid sites within the first few months of hostilities.²⁹

Ukraine and Sudan also recorded numerous attacks and deaths of aid personnel. In April 2024, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported over 377 deaths across twenty countries.³⁰ As of August 2025, over 265 aid workers had been killed, 115 wounded, 56 kidnapped, and 31 detained³¹ in Palestine alone, illustrating the grave dangers faced by

humanitarian workers as a rising challenge in the delivery of humanitarian services.

Another challenge is the shortage in the supply of relief materials to victims of war, given that such materials are sourced primarily from voluntary donations by charitable organizations. Donors are not compelled to provide additional relief, and there is also the persistent problem of sabotage, whereby supplies are diverted from those in genuine need to other locations. In northern Nigeria, some internally displaced persons (IDPs) were denied relief through acts of sabotage during the peak of the Boko Haram insurgency in 2019, leaving those most desperate without the materials essential to their survival.

Another fundamental challenge is the discriminatory pattern of relief distribution. Certain groups are routinely excluded from receiving assistance, and women and young girls are sometimes subjected to demands for sexual favours as a condition of access to aid. Women have frequently been compelled to provide sex in exchange for relief materials. In some IDP camps, access to relief is withheld unless such corrupt demands are met. Until the perpetrators of these abuses are identified and subjected to disciplinary measures, the equitable distribution of humanitarian relief at the grassroots level will continue to elude those most in need.

The illicit demand for sexual favours in exchange for humanitarian relief is a persistent obstacle to the realization of the rights of victims of conflict. The pervasive fear of harassment has prevented some women from seeking aid relief altogether. In war situations, the rule of law is typically weak; victims may have little or no recourse to legal protection, impunity goes unchecked, and this further deepens the systemic compromises inherent in aid distribution.

In the Democratic Republic of Congo, approximately 50 women accused certain aid workers of sexual abuse during the Ebola crisis.³² In Nigeria, many women were compelled to exchange sexual favours for their own survival and that of their dependants.³³ Rape and sexual assault have been recurrent features of most IDP camps in Nigeria. Survivors find it difficult to report abuse owing to shame and stigma. This critical state of vulnerability among victims remains largely unaddressed, and this injustice has acquired a specific dimension in respect of the reproductive health rights of women, compounded further by entrenched socio-economic inequalities within the society.³⁴

²⁹Ferragamo, Mariel (ed.). 'Across Battlefields, Aid Workers Are Targeted.' <https://www.cfr.org>.

³⁰Ibid.

³¹OCHA. 'Record Number of Attacks on Aid Workers: Crimes Go Unpunished.' <https://reliefweb.int>.

³²Thomson Reuters Foundation, September 2020. <https://thenewhumanitarian.org>.

³³Report compiled from several Nigerian media outlets between 2015 and 2022 covering ISWAP and Boko Haram insurgencies.

³⁴See Oga, Jessica, et al. *Journal of Refugee Studies*.

Conclusion

War is invariably a last resort in any conflict. It constitutes the greatest ravage of lives and property known to humanity over the centuries. The outcomes of war are invariably disastrous; it is never predictable until it ends. It is catastrophic for those engaged on the front lines as well as for those caught in its periphery. No one can be entirely insulated from the turmoil of conflict, and the effects of war are invariably grim.

The world has experienced numerous wars between nations (international armed conflicts) as well as civil wars. The aftermath is never satisfactory. Those caught in hostilities must be treated humanely in accordance with the law of armed conflict as codified in the Geneva Conventions.

Though it has become extremely difficult to outlaw war and to render the world entirely peaceful for all of humanity, there is a need to strive, with every human capacity, to ameliorate the effects of war on its victims. Specialized

humanitarian aid providers — such as the Red Cross and Emergency Response Africa (ERA), among others — must be given the support and leverage necessary to assist victims in war-torn areas, in contrast to the frustrations they routinely encounter in carrying out their humanitarian mandate.

Humanitarian aid workers must be encouraged and, in so far as they remain neutral in war zones, they are to be protected by both sides of the conflict. Humanitarian exigencies are necessary steps in preserving human lives for a sustainable future. It is therefore the duty of all parties to any conflict to preserve human lives and to treat the victims of war with human conscience, in accordance with the principle of proportionality.

The provision of necessities in times of emergency is a human right — a right to health and to life. Denying this support at a critical moment amounts to a breach of the right to life, the violation of which is punishable as a war crime.