



## **POLICY BRIEF**

# **Holding Israel Accountable for Breaching the Gaza Ceasefire Agreement**

Iqra Bano Sohail

June 2025

## **Executive Summary**

The collapse of the 2025 Gaza ceasefire due to Israel's obstruction of humanitarian aid and unilateral suspension of its obligations raises serious concerns under international law. While ceasefire agreements are often seen as political tools, they carry binding legal force when concluded between states and are governed by principles of International Humanitarian Law (IHL) and the Vienna Convention on the Law of Treaties. Israel's conduct in this context not only undermines the purpose of the ceasefire but also violates core IHL principles, including the protection of civilians and the obligation to facilitate humanitarian access. These actions reflect a broader pattern of impunity and highlight the limitations of existing enforcement mechanisms. As the humanitarian situation in Gaza deteriorates, the international community must confront the legal and moral imperative to ensure accountability for breaches of ceasefire agreements and uphold the foundational norms of international law.

## **Policy Recommendations**

- Parties who brokered the ceasefire can formally invoke Israel's breach under Article 65 of the Vienna Convention on the Law of Treaties. If consultations fail, they should consider proportionate and non-punitive countermeasures, such as suspending cooperation or imposing trade restrictions, in accordance with Article 60(4), to induce Israel's compliance with the ceasefire terms.
- The international community should consider referring Israel's ceasefire violations to the United Nations Security Council under Chapter VI or Chapter VII of the UN Charter to seek formal condemnation, demand compliance, or impose targeted sanctions such as arms embargoes or asset freezes.
- Complaints can be filed before relevant human rights committees that are treaty-based body tasked with investigating and hearing complaints on specific human rights abuses
- The international community should escalate Israel's non-compliance with the ICJ's provisional measures to the UNSC under Article 94(2) of the UN Charter. This would facilitate enforcement through diplomatic pressure, targeted sanctions, or broader coercive measures, reinforcing accountability for the breach of the ceasefire agreement.

## UNDERSTANDING CEASEFIRES UNDER INTERNATIONAL LAW

A ceasefire constitutes a legally significant suspension of hostilities between warring parties, often undertaken to allow humanitarian access, reduce civilian suffering, and create space for political negotiations. While frequently portrayed as political arrangements, ceasefires, once agreed upon, are subject to the binding framework of International Humanitarian Law (IHL). They function not only as tools of de-escalation but as mechanisms through which legal protections for civilians can be meaningfully operationalized in situations of armed conflict.<sup>1</sup>

The legal character of ceasefires is reinforced by various sources of international law. Under Common Article 3 of the Geneva Conventions<sup>2</sup>, all parties to a conflict are obligated to ensure humane treatment of persons not taking active part in hostilities. Ceasefires help give practical effect to this obligation by facilitating periods during which combat operations cease and humanitarian relief can be delivered. Additional legal reinforcement comes from Article 51 of Additional Protocol I (1977), which prohibits indiscriminate attacks and mandates the distinction between civilian and military targets, obligations that gain considerable importance during formally declared suspensions of conflict.

### When is it Permissible to Breach a Ceasefire?

Ceasefires are to be upheld in good faith under the principle of *pacta sunt servanda*, enshrined in Article 26 of the Vienna Convention on the Law of Treaties (1969). This principle dictates that any agreement validly entered into must be performed in good faith by the parties. A unilateral breach, particularly without credible justification or due process, is therefore inconsistent with international law. A party may only resume hostilities under specific conditions, namely, if there has been a material breach of the ceasefire agreement by the opposing side. This standard, articulated in Article 60 of the Vienna Convention and reinforced by Article 40 of the 1907 Hague Regulations, requires that such a breach must amount to a repudiation of the treaty or defeat its object and purpose.<sup>3</sup>

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<sup>1</sup> Marika Sosnowski, “‘Not dead but sleeping’: Expanding international law to better regulate the diverse effects of ceasefire agreements” (2020) 33 *Leiden Journal of International Law* 731. 1

<sup>2</sup> Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) art 3.

<sup>3</sup> Peter S. Konchak, ‘Ceasefire in International Armed Conflict: Implications for Jus Ad Bellum Self-Defense’ (Articles of War, 14 February 2024)

## THE UNJUSTIFIED NATURE OF ISRAEL'S BREACH

In the case of Israel's March 18, 2025 resumption of military operations in Gaza, there is no clear evidence that Hamas committed a material breach of the ceasefire sufficient to justify the use of force.<sup>4</sup> According to multiple independent reports, including preliminary statements from the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), there was no verified rearmament or attack that would constitute a grave violation of Phase I obligations under the ceasefire<sup>5</sup>. Furthermore, Israel's disengagement from negotiations toward Phase II and the immediate recourse to military escalation without seeking mediation or verification mechanisms is inconsistent with its duty to resolve disputes in good faith. The expansion of military operations into Lebanon and Syria, alongside internal raids in the West Bank, also demonstrates a disproportionate and uncoordinated response that falls outside the legally permissible grounds for ceasefire termination.

Ceasefires must not be treated as tactical pauses in conflict but as legally protected spaces of civilian respite and humanitarian activity. Any party seeking to exit a ceasefire arrangement must do so through transparent legal procedures, ideally involving third party monitoring or verification. The absence of such steps in the current case casts serious doubt on the legality of Israel's actions and raises concerns about the erosion of international legal norms governing armed conflict.

## VIOLATIONS OF INTERNATIONAL LAW

### Misuse of Article 51 of the UN Charter: A Questionable Self-Defense Claim

Israel has repeatedly invoked Article 51 of the UN Charter to justify its military operations as acts of self defense. However, the doctrine of self defense under international law is strictly limited to responses to an armed attack and must be both necessary and proportionate. Continued hostilities, especially in the context of an active ceasefire and prolonged occupation, cannot be justified as preemptive or defensive actions<sup>6</sup>.

Additionally, the 2024 ICJ Advisory Opinion on the Legal Consequences of the Continued Israeli Presence in the Occupied Palestinian Territory reaffirmed that Israel cannot

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<sup>4</sup> Al Jazeera, 'Why did Israel break the ceasefire in Gaza?' (Al Jazeera, 18 March 2025).

<sup>5</sup> UN News, 'Gaza: UN rights office calls for accountability after reports of mass graves at Nasser and Al-Shifa hospitals' (UN News, 23 April 2025) <https://news.un.org/en/story/2025/04/1163871> accessed 5 May 2025.

<sup>6</sup> Vox, 'Israel, the right to self-defense, Gaza, and Palestine, explained' (Vox, 7 March 2024)

rely on the right of self defense under Article 51 to justify military actions in the territories it occupies, emphasizing that Israel's obligations as an occupying power under international law remain paramount.<sup>7</sup>

### **Continued Starvation and Humanitarian Blockades**

The removal or easing of blockades on humanitarian aid was a central obligation under Phase I of the 2025 Gaza ceasefire agreement. This provision aimed to ensure the swift delivery of life saving assistance to Gaza's civilian population. However, Israel failed to uphold this commitment, continuing to restrict aid convoys, target food distribution centers, and disrupt water supplies in contravention of both the ceasefire's terms and binding international law.<sup>8</sup>

This raises serious concerns under both IHL and international human rights law. The Fourth Geneva Convention (Article 23) and Additional Protocol I (Article 70) impose a clear obligation to allow and facilitate the rapid and unimpeded passage of humanitarian relief.<sup>9</sup> Blocking such assistance, particularly when civilians are wholly dependent on it for survival, is illegal.

Additionally, the prohibition on the use of starvation of civilians as a method of warfare is well established under customary international law, independently of whether a state has ratified specific treaties. This principle is reaffirmed in UN Security Council Resolution 2417 (2018), which explicitly condemns the use of starvation against civilians and recognizes it as a violation of international law. As a result, Israel is legally bound by this norm, even though it is not a party to the Rome Statute of the International Criminal Court.

Nevertheless, the Rome Statute's legal framework offers further clarity on the gravity of these acts. Under Article 8(2)(b)(xxv), the intentional use of starvation of civilians as a method of warfare, particularly through the deprivation of objects indispensable to their survival, constitutes a war crime. Furthermore, when such acts are carried out in a widespread or systematic manner as part of a deliberate policy targeting a civilian population, they may also qualify as crimes against humanity under Article 7(1)(k).

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<sup>7</sup> *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (Advisory Opinion)* [2024] ICJ Rep para 140.

<sup>8</sup> Human Rights Watch, 'Israel Again Blocks Gaza Aid, Further Risking Lives' (Human Rights Watch, 5 March 2025).

<sup>9</sup> "Each High Contracting Party shall allow the 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, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases."

## Violations of International Humanitarian Law

### *Principle of Distinction*

The principle of distinction<sup>10</sup> mandates that all parties to an armed conflict must at all times distinguish between combatants and civilians, and between military objectives and civilian objects. In the case of Israel's military operations in Gaza since March 18, 2025, there is mounting evidence of a systematic failure to uphold this principle.

By failing to distinguish adequately between combatants and civilians, and by engaging in patterns of attack that result in mass civilian casualties and destruction of essential civilian infrastructure, Israel has likely breached the principle of distinction.

### *Principle of Proportionality*

The principle of proportionality<sup>11</sup>, as enshrined in Article 51(5)(b) of Additional Protocol I to the Geneva Conventions, prohibits attacks that may cause incidental loss of civilian life, injury to civilians, or damage to civilian objects which would be excessive in relation to the concrete and direct military advantage anticipated.

Israel's attacks, many carried out in densely populated urban centers, raise significant questions about whether the military advantages sought by Israel were proportionate to the harm inflicted on civilians.

### *Principle of Military Necessity*

The principle of military necessity<sup>12</sup> holds that the use of force in armed conflict is only lawful when it is directed toward achieving a legitimate military objective. It prohibits destruction that is not imperatively demanded by the necessities of war. The sheer scale of civilian infrastructure targeted, alongside the indiscriminate nature of several strikes, suggests that many of Israel's also violated this principle.

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<sup>10</sup> Article 48 of the 1977 Additional Protocol I to the Geneva Convention

<sup>11</sup> Article 51(5)(b) of the 1977 Additional Protocol I Geneva Convention

<sup>12</sup> "Doctors without Borders" (The Practical Guide to Humanitarian Law) <https://guide-humanitarian-law.org/content/article/3/military-necessity/> accessed October 20, 2024

## OPTIONS FOR THE INTERNATIONAL COMMUNITY

### Accountability under the Vienna Convention on the Law of Treaties

The 2025 Gaza ceasefire agreement, brokered with the involvement of Egypt, Qatar, and the United States, qualifies as a binding international agreement under Article 2(1)(a) of the Vienna Convention on the Law of Treaties.<sup>13</sup> As evident from the discussion above, Israel has breached the ceasefire without any justification.

In accordance with the procedural requirements set forth in Article 65 of the VCLT<sup>14</sup>, the parties to the agreement, or other states with legal standing, may formally invoke Israel's breach by issuing written notification. This must be followed by consultations aimed at reaching a resolution. If the breach remains unresolved, the parties may proceed to suspend aspects of the agreement or adopt proportionate countermeasures in response, such as limiting bilateral cooperation or enacting trade restrictions. These actions must comply with Article 60(4), which requires that any measures taken in response to a breach be directed at inducing compliance rather than punitive in nature.

### United Nations Security Council Resolution

Concurrently, the international community has the option to escalate the issue to the United Nations Security Council (UNSC). A resolution may be introduced under either Chapter VI or Chapter VII of the UN Charter. Under Chapter VI, the Council may recommend peaceful measures to secure compliance with the ceasefire, while Chapter VII allows for more coercive steps, including the imposition of sanctions pursuant to Article 41 of the Charter. These may include an arms embargo, travel bans, or asset freezes targeting individuals or entities responsible for the breach. Although there is a likelihood of veto by one or more permanent members, particularly the United States, the introduction of such resolutions serves an important normative and political function by reinforcing international legal standards and building global pressure for accountability. This is also evident from the United States' veto of the 4 June 2025 UNSC resolution calling for an immediate, unconditional, and permanent

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<sup>13</sup> Al Jazeera, 'What do we know about the Israel-Gaza ceasefire deal?' (*Al Jazeera*, 15 January 2025).

<sup>14</sup> Mario Prost, 'Article 65: Procedure to Be Followed with Respect to Invalidity, Termination, Withdrawal from or Suspension of the Operation of a Treaty' in Olivier Corten and Pierre Klein (eds), *The Vienna Convention on the Law of Treaties - A Commentary* (Oxford University Press 2011).



ceasefire in Gaza, despite the ongoing killing of nearly 100 Palestinians in just 24 hours, underscores its willingness to obstruct binding international action.

### **Human Rights Based Treaty Mechanisms**

Human rights committees possess the capability to influence compliance through various avenues. The UN human rights system includes a network of ten treaty bodies that monitor the implementation of specific human rights treaties by member states. These committees are composed of independent human rights experts who serve in their individual capacities, not as representatives of their governments. While treaty bodies lack enforcement powers, their reviews and recommendations carry significant weight. They can influence domestic laws, policies, and practices to improve human rights protection. Moreover, some treaty bodies, such as the Committee on the Elimination of Racial Discrimination (“CERD”) have complaint mechanisms before which member states can file complaints for non-compliance against other member states.

In addition to the treaty bodies, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories was established in 1968 by General Assembly resolution 2443 (XXIII)<sup>15</sup>. This committee closely monitors Israel's actions, documenting any human rights violations resulting from its non-compliance and reporting them domestically and internationally.

### **Enforcing the Provisional Measures Issued by the International Court of Justice**

The International Court of Justice (ICJ) has issued a series of orders, demanding that Israel cease any actions that can potentially be classified as genocidal, facilitate the unhindered delivery of humanitarian aid and permit investigations into alleged war crimes.<sup>16</sup> Despite the binding nature of these rulings, the ICJ enforcement authority remains weak and the court primarily relies on voluntary compliance by member states.

Enforcement of provisional measures issued by the ICJ may be pursued through the UNSC under Article 94(2) of the UN Charter. This provision authorizes the Security Council to take measures to secure compliance when a state fails to fulfill its obligations under an ICJ

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<sup>15</sup> M.I., “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories - (A/78/553) - Question of Palestine” (Question of Palestine, January 19, 2024) <https://www.un.org/unispal/document/report-of-the-specialcommittee-to-investigate-israeli-practices-affecting-the-human-rights-of-the-palestinian-people-and-other-arabs-of-the-occupied-territories-a-78-553/>

<sup>16</sup> South Africa v. Israel, Order of 28 March 2024



judgment. In cases where Israel refuses to comply with the ICJ's provisional measures, states may elevate the matter to the Security Council for appropriate action.

To initiate such a process, states must present credible evidence demonstrating Israel's non-compliance with the Court's directives and formally request the Council's intervention to facilitate enforcement. The Security Council, upon evaluating the situation, may pursue a range of responses. These could include issuing formal statements or resolutions urging Israel to comply with the ICJ's orders, engaging in diplomatic efforts to encourage adherence, or imposing targeted measures such as economic sanctions or asset freezes designed to exert pressure on Israel's government.

In situations where non-compliance constitutes a threat to international peace and security, the Council has the authority to adopt binding enforcement measures under Chapter VII of the UN Charter. These could potentially encompass broader sanctions or other coercive instruments intended to ensure compliance with the Court's rulings. However, as mentioned previously, the effectiveness of this pathway is tempered by the structural limitations of the Security Council itself because of the veto power vested in the five permanent members.

### **Policy Recommendations**

- Parties, who brokered the ceasefire i.e. Egypt, Qatar and the United States of America, can formally invoke Israel's breach under Article 65 of the Vienna Convention on the Law of Treaties. If consultations fail, they should consider proportionate and non-punitive countermeasures, such as suspending cooperation or imposing trade restrictions, in accordance with Article 60(4), to induce Israel's compliance with the ceasefire terms.
- The international community should consider referring Israel's ceasefire violations to the United Nations Security Council under Chapter VI or Chapter VII of the UN Charter to seek formal condemnation, demand compliance, or impose targeted sanctions such as arms embargoes or asset freezes.
- Complaints can be filed before relevant human rights committees that are treaty-based body tasked with investigating and hearing complaints on specific human rights abuses
- The international community should escalate Israel's non-compliance with the ICJ's provisional measures to the UNSC under Article 94(2) of the UN Charter. This would facilitate enforcement through diplomatic pressure, targeted sanctions, or broader coercive measures, reinforcing accountability for the breach of the ceasefire agreement.

<b>Action Matrix</b>				
<b>Options for International Community</b>				
<b>Option</b>	<b>Pathways to Solution</b>	<b>Implementation of Solution</b>	<b>Actors Responsible</b>	<b>Implementation Timelines</b>
<b>Accountability and Enforcement under the Vienna Convention on the Law of Treaties</b>	States can invoke the breaches ceasefires under the Vienna Convention on the Law of Treaties. This approach offers a structured legal mechanism to hold States accountable for their breach, ensuring that any actions taken are aimed at restoring the ceasefire and maintaining international order.	Parties, who brokered the ceasefire i.e. Egypt, Qatar and the United States of America, can formally invoke Israel's breach under Article 65 of the Vienna Convention on the Law of Treaties	<ul style="list-style-type: none"> <li>• United Nations General Assembly</li> <li>• United Nations Security Council</li> <li>• Parties to the Ceasefire Agreement</li> </ul>	<p>3-6 Months for Initial consultations and notification</p> <p>3-6 Months for Suspension of Agreement &amp; Countermeasures (if unresolved)</p> <p>6-12 Months for Ongoing Monitoring &amp; Enforcement</p>
<b>Imposition of Sanctions by the United Nations Security Council (UNSC)</b>	After acknowledging the situation as a clear violation of International Law, the council can call for sanctions on Israel.	UNSC can draft a resolution demanding Israel to cease the use of booby traps. The UNSC would impose sanctions, including an arms embargo, travel bans, and asset freezes. Additionally, the Council should launch initiatives to raise global awareness of the issue and provide humanitarian aid to victims affected by these devices	<ul style="list-style-type: none"> <li>• United Nations Security Council.</li> <li>• UN Office for the Coordination of Humanitarian Affairs</li> </ul>	<p>1-3 Months to draft the resolution.</p> <p>3-6 Months for implementation of sanctions.</p>
<b>Accountability Through Human Rights Committees</b>	Human rights committees possess the capability to influence compliance through various avenues including hearing complaints and providing recommendation for state behavior	<p>Treaty based bodies include:</p> <ul style="list-style-type: none"> <li>• Committee on Elimination of Racial Discrimination</li> <li>• Committee on Economic Social and Cultural Rights</li> <li>• Human Rights Committee</li> <li>• Committee on the Elimination of Racial Discrimination Against Women</li> <li>• Committee against Torture.</li> <li>• Committee on the Rights of the Child.</li> <li>• Committee on Migrant Workers</li> </ul>	<ul style="list-style-type: none"> <li>• Human Rights Committee</li> <li>• Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories</li> <li>• National Human Rights Institutions</li> <li>• United Nations Human Rights Council.</li> </ul>	<p>6-12 Months for Investigation and filing of application before relevant committee depending on the human right violation</p> <p>Each human rights committee has its own rules and procedures</p>

		<ul style="list-style-type: none"> <li>• Committee on Enforced Disappearances</li> </ul> <p>Charter Based bodies include the Human Rights Council which includes:</p> <ul style="list-style-type: none"> <li>• Special Procedures and Mandates</li> <li>• Universal Periodic Review</li> <li>• Independent Investigations, including the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories</li> </ul>		
<b>Enforcing the Provisional Measures Issued by the ICJ</b>	The UNSC can enforce the decisions of the ICJ through various means including the imposition of economic sanctions.	South Africa retains the option to take the matter to the UNSC. It must submit evidence to the Council, which may exert diplomatic pressure, impose economic sanctions, or take coercive actions to exert pressure on Israel for compliance.	<ul style="list-style-type: none"> <li>• The South African Permanent Mission to the United Nations</li> <li>• Department of International Relations and Cooperation (DIRCO), South Africa</li> <li>• Department of Justice and Constitutional Development, South Africa</li> </ul>	<p>2-4 months to collect the evidence. 1-2 months for submission to the UNSC.</p> <p>6-12 months for UNSC's deliberations and actions</p>