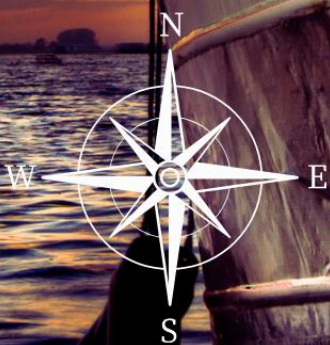




GENEVA CENTRE FOR HUMAN RIGHTS  
ADVANCEMENT AND GLOBAL DIALOGUE

# The Gaza Freedom Flotilla Navigating with the Compass of International Law





## The Gaza Freedom Flotilla

### Navigating with the Compass of International Law

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#### Research Paper

#### Shedding light on Madleen Kulab

Twelve men and women, activists committed to recognising the rights of the Palestinian people, met on 1 June in Sicily aboard the Freedom Flotilla. The sailboat carrying them, the **Madleen Kulab**, pays tribute to the first - and only - woman fisherwoman from Gaza. For over fifteen years, Madleen defied the Israeli blockade to feed her family, until her equipment was destroyed by the army, depriving her of her livelihood and her identity.

This attempt is not the first, but the fifth of its kind. The first, in 2010, ended in tragedy. On 31 May, nine civilians were killed and several others injured when the Israeli army launched an assault on a flotilla that had set off from Turkey on a mission to bring humanitarian aid to Gaza.

#### Decade-long blockade, long-lasting plight

Since 2007, the Gaza Strip has been under an Israeli blockade, which suffocates its population on a daily basis. The blockade follows the victory of Hamas in the parliamentary elections in 2006 and is intended, according to its instigators, to 'protect Israel from terrorism'. How does it work?

There are two restrictions. Firstly, on goods, including cement, wood, fishing ropes, fishing rods and industrial salt, which, combined with the massive bombardments, are helping to wipe out fishing in the region.

The Israeli authorities control most of the checkpoints between Gaza and the rest of the region: the West Bank, East Jerusalem and Israel (with the help of Egypt). The fragmentation of the territory combined with these restrictions preclude the potential of the emergence of a Palestinian State, given the territorial discontinuity. Thus, while 'Israel evacuated the Gaza Strip to the last centimetre' in 2005, it took just one year to regain control in another way: no longer by the direct presence of its soldiers, but by encircling it, blocking its borders, its airspace and its waters, and placing its economy and demography under tutelage.

#### An act of humanitarian and legal resistance

It is against this confinement that successive flotillas are taking to the seas. Their mission, which is twofold but indissociable, is to deliver emergency material aid while at the same time challenging, by peaceful means, the legitimacy of a blockade that contravenes international humanitarian and human rights law. The flotillas can be qualified as an act of resistance – a resistance in defence of both sheer humanity and well-established norms of international humanitarian law.

Escorted by two Israeli naval vessels, the sailing vessel Madleen Kulab was boarded on the evening of 9 June 2025. On the X platform (formerly Twitter), the Israeli Ministry of Foreign Affairs





relayed the operation by showing members of the crew receiving meals on board a military vessel, ironically describing the boat as a ‘selfie yacht’.

### **Legal narratives and beyond**

Behind this attempt to undermine the credibility of the operation lies a well-honed communication strategy: Israel, which has been widely undermined in the eyes of international public opinion, is seeking to reverse the narrative. So this is no longer just a naval offensive, but an image operation in which the ethical argument is also used as legal leverage.

On 11 June, Joshua Zarka, the French ambassador to Israel, appeared before the French Senate. There, he defended the legality of the interception of the flotilla and the arrest of its passengers, in the name of Israel’s right to protect itself. However, these assertions are being fiercely contested by experts in international law, such as Benjamin Fiorini, Secretary-General of the Association of Jurists for the Respect of International Law (AJRDI in its French acronym) who puts forward two major arguments to denounce the illegality of this operation.

### **Interception in international waters**

Firstly, the interception took place in international waters north of Egypt, where Israel has no sovereignty or jurisdiction. Contrary to Israeli statements - according to which the operation was carried out on the approach to Israeli territorial waters, the data from the onboard GPS tracker, made public by the Flotilla itself, attest that the boarding took place in open sea. Consequently, such an intervention is tantamount to an extraterritorial action with no legal basis.

This testimony is corroborated by the members of the crew, in particular Baptiste André, a doctor from Marseilles, who stated on his return to France: ‘The Israeli army boarded our boat, tied us up, handcuffed us, blindfolded us and took us to Ashdod. We weren’t in Israeli waters.’ He adds that several of his comrades have chosen to remain detained in Israel as a sign of protest, and that he proves them right. This first-hand experience confirms the gap between Israeli communication and the reality on board.

### **Humanitarian ship hijacking as a double legal breach**

Secondly, Israel, as the Occupying Power of the Gaza Strip under international humanitarian law, has an obligation to guarantee the civilian population access to humanitarian aid. The hijacking of a ship whose mission is precisely to deliver this aid therefore constitutes a double violation - not only of maritime law, but also of international humanitarian law. As Benjamin Fiorini points out, Israel is ‘shirking its obligation to allow the civilian population access to humanitarian aid, which is essential for the preservation of their fundamental rights: the right to life, dignity and health’.

### **Diplomatic immunity and consular protection**

A third point is also worth mentioning, although it concerns a specific case - the presence on board of Rima Hassan, Member of the European Parliament (MEP). As an elected member of Parliament, she enjoys diplomatic immunity, which should have been fully respected. As soon as the vessel was boarded, France reiterated this principle, requesting the exercise of her consular protection. The Ministry of Foreign Affairs stated that the French Consulate had immediately



requested authorisation to meet the French nationals as soon as they arrived at the port of Ashdod, in order to ascertain their situation and organise their return.

The French passengers on board include Rima Hassan, an LFI MEP committed to the Palestinian cause, Baptiste André, a doctor from Marseille responsible for looking after the crew's health, Omar Faiad and Yanis Mhamdi, journalists who have come to document this humanitarian initiative, Reva Seifert-Viard, an environmental activist determined to denounce the injustice of the blockade, and Pascal Maurieras, a computer engineer and experienced sailor on board.

### On the right to humanitarian access

In this context, it is noteworthy to stress that the right to humanitarian access refers to the ability of impartial humanitarian organizations - such as the International Committee of the Red Cross (ICRC) - to provide assistance and protection to persons affected by armed conflict and other situations of violence. This right is rooted in international humanitarian law (IHL), particularly the 1949 Geneva Conventions and their Additional Protocols.

Under common article 3 of the 1949 Geneva Conventions and articles 9/9/9/10 of the four Conventions, humanitarian organizations like the ICRC may offer their services to parties to a conflict. Article 70 of Additional Protocol I (1977) allows for relief actions when civilian populations are suffering, while article 18 of Additional Protocol II applies to non-international armed conflicts. Article 70(1) of Additional Protocol I states that relief actions 'shall be undertaken... subject to the agreement of the parties concerned.' Therefore, humanitarian access is not automatic, as it requires the consent of the State or party to the conflict. These rules shall be informed by [customary IHL rule 55](#)<sup>1</sup> reinforcing the principle that 'the parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction.' State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.

### Demystifying the right to deny or withdraw consent

However, this consent must not be arbitrarily withheld or withdrawn, especially when civilians are in dire need of humanitarian aid. Consent is arbitrarily withdrawn if it is not grounded on a legitimate reason or it is done in a way that violates the legal obligations to protect civilians. Parties may not deny or revoke consent if doing so would lead to starvation, lack of medical aid, or undue suffering.

On the contrary, withdrawal of consent may be lawful if based on security concerns such as active combat zones, impartiality breaches by aid agencies, and misuse of aid such as diversion to armed groups. Nonetheless, this does not give free rein to the State to deny consent. Even in such lawful cases, the party concerned is expected to seek alternatives and minimize harm to civilians.

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<sup>1</sup> [Customary IHL - Rule 55. Access for Humanitarian Relief to Civilians in Need](#): 'The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control'.



UN Security Council Resolutions and international jurisprudence reinforce these rules as they all converge in the view that denying humanitarian access without justification may constitute a violation of IHL, and in some cases, may amount to a war crime, especially if it leads to civilian starvation.

### **The future of international law seriously at stake**

Beyond the fate of a sailing boat and its passengers, there is a broader issue at stake, namely the future of international law in the face of its repeated failure. Video footage of inhabitants of Gaza – including many minors - desperately looking for food rations dramatically depicts how the enclave is on the brink of famine. Another eloquent glimpse of the unbearable suffering is offered by UNRWA's recent post asking what any parents would do when in the middle of a surgery their child would wake up do to the lack of anaesthesia. Such a growing disregard for the rule of law and human rights along with the UN Charter is particularly glaring in Gaza. Worrisomely, the backlash against the most fundamental norms of international law – most notably the failure to protect civilians – is an inadmissible trend proliferating among many UN member states.

Confronted with such inhuman suffering in flagrant breach of long-established international rules, anyone may ponder what is the value of a rule if it is not accompanied by any binding mechanism? On behalf of the Elderly, Mr. Ban Ki-moon's very recent reflections on the occasion of the 80th anniversary of the United Nations reveal this very same existential threat looming upon multilateralism. 'Multilateralism cannot function, let alone thrive, in the absence of commitment from governments.'<sup>2</sup> The very essence of multilateralism is the quest for common rules applicable to big and small alike, thereby shaping an international order based on legal certainty and sovereign equality, which expresses itself in a large set of common international norms, with the prohibition of use of force in international relations at its cornerstone.

The Flotilla affair clearly reveals the limits of such a legal order based on the voluntarism of States, and on the idea that law and justice can be imposed without force. In a world where certain states can ignore the rules without consequences, the very existence of and faith in century-old principles of international humanitarian law is being wildly jeopardized.

### **Between promising rhetoric and reality**

A number of countries, including New Zealand, the United Kingdom, Norway, Canada and Australia, have already issued sanctions against two Israeli ministers - Bezael Smotrich and Itamar Ben Gvir. In a joint statement, they said: 'Itamar Ben Gvir and Bezael Smotrich have incited settlers to extremist violence and serious violations of the human rights of Palestinians.' The extremist rhetoric advocating the forced displacement of Palestinians and the creation of new Israeli settlements is appalling and dangerous. These actions are unacceptable.

On June 10, 2025, Canada amended the Special Economic Measures Regulations targeting extremist settler violence to include Smotrich and Ben Gvir. The Canadian government considers that these two ministers have engaged in activities that constitute a serious breach of peace and security by supporting, facilitating, and contributing to violent acts committed by extremist settlers against Palestinian civilians or their property in the occupied Palestinian territories. The

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<sup>2</sup> [The UN saved my family, now we must find the courage to save it](#)



sanctions prohibit any dealings with them and render them inadmissible to Canada under the Immigration and Refugee Protection Act. This is certainly a firm stance, although still very isolated, at a time when France is wavering on the issue of officially recognising the existence of a Palestinian State.

### Civil society taking up the baton

When political figures such as US Secretary of State Marco Rubio denounce these sanctions in the name of strategic solidarity, the very idea of a truly universal law is undermined. Faced with the continuing powerlessness of states and of the United Nations to enforce core principles of international law alongside internal divergences within the European Union, it is now civil society that is taking up the baton. In Tunisia, a support caravan made up of Tunisian, Algerian and Mauritanian citizens took the road to Gaza, hoping to symbolically cross the borders of the blockade and bring back the compass of international law at the very centre of international decision-making. The international community must find the courage to save Gaza and similar unspeakable situations, which is tantamount to saving international law.

