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BEYOND CEASEFIRES: THE OPERATIONAL LOGIC OF HUMANITARIAN ADR IN THE GAZA CONFLICT

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ABSTRACT

As conflict zones intensify and peace solutions falter, the need to explore alternative avenues of peacekeeping grows, as the possibility of reconciliation diminishes. The existing literature highlights the use of mediation and ADR in post-conflict scenarios, yet it overlooks the importance of real-time mediation in reaching agreements between conflicting factions. This gap prompts one to reconsider the narrative of mediation as a post-war mechanism and to view it instead as an emerging form of peacekeeping that can be implemented even during the conflict itself. The paper presents a study of UN documents, ICRC files, NGO reports, summaries of cases in international forums, mediation, and literature on peacebuilding to explore the significance and the impact of ADR in the humanitarian crisis in Gaza. The research reveals that fragile, temporary humanitarian agreements emerged from an intricate system of multiple mediators, drawing on the diverse powers of state actors, neutral intermediaries, and local civil society, amid significant power imbalances and deep mistrust. It also demonstrates that ADR and International Humanitarian Law can work in tandem to mitigate harm to civilians, facilitate the judicial process during transition, and inform assessments of ADR's effectiveness as a basis for a future conflict-management framework. Together, these findings

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rewrite the narrative of mediation as not merely a post-war tool but a practical, immediate form of humanitarian peacekeeping during ongoing conflict.

Keywords: Alternative Dispute Resolution (ADR), Mediation, International Humanitarian Law (IHL), Gaza Conflict, Peacebuilding

HUMANITARIAN CRISIS IN CONTEMPORARY ARMED CONFLICTS: THE GAZA CONTEXT

Today, in this modern world, conflict zones are not merely battlefields or fields of military confrontation, but rather a space for massive government collapse and infrastructure destruction. Civilians face a shortage of food, water, shelter, and other essential resources, as well as a lack of medical and private security. Between 2023 and 2025, in Gaza, hostilities, blockades, and periods of escalation led to a situation of “*siege-like existence*,” in which humanitarian requirements have become immediate, continuous, and of high political significance. In such circumstances, it is imperative to have mechanisms capable of working within conflict situations rather than after a peace agreement. Numerous obstacles often hinder trade and conventionally conducted diplomatic relations in these conflict areas. These obstacles stem from an inflexible political structure, barriers that result from geopolitical factors, and rigid agendas. Larger geopolitical disputes often subvert negotiations, resulting in civilian suffering and political paralysis. Other obstacles to formal diplomatic engagement include mutual distrust, a lack of secure talks, and the fear of legitimizing an adversary's position.³ Negotiations for humanitarian access to Gaza have repeatedly been blocked by long-lasting political divisions that are not connected to the humanitarian situation in the Gaza Strip. This highlights the limitations of diplomacy and diplomatic channels in resolving humanitarian issues during times of conflict⁴.

ADR offers a potential solution to traditional barriers, providing advantages in terms of time, cost, and overall access to humanitarian assistance as an existing mechanism for resolving disputes arising from conflicts. The ADR processes encompass a spectrum of approaches, including mediation, negotiation, and conciliation. By emphasizing collaborative dialogue, the

³ Ashley Jonathan Clements, “*The Frontlines of Diplomacy: Humanitarian Negotiations with Armed Groups* (Ph.D. thesis”, The Australian National University 2019), <https://csf-sudan.org/wp-content/uploads/2023/10/clements-frontlines-of-diplomacy.pdf>. (last visited on December 8, 2025)

⁴ “UN Says Israeli Impediments Continue to Block Gaza Aid Access”, Anadolu Agency (Nov. 11, 2025), available at <https://www.aa.com.tr/en/middle-east/un-says-israeli-impediments-continue-to-block-gaza-aid-access/3740307> (last visited on December 8, 2025)

voluntary participation of the parties, and solutions tailored to their specific needs, the ADR processes provide a flexible approach.⁵

Political ADR addresses macro-level crises on a large scale, such as governance stability, infrastructure development, territorial boundaries, sovereignty, peace and security, and ceasefire agreements. Still, on the other hand, humanitarian ADR focuses on micro-level issues, such as life-saving tactics for civilians, temporary pauses in hostility through negotiation, and the exchange of detainees during wartime, among others. The purpose of these negotiations is not to find a solution to the conflict itself but rather to limit the suffering of the people involved in that conflict.⁶

Humanitarian ADR is based on the Ripeness Theory as articulated by *I. William Zartman*. It describes the process of making peace through negotiation. A conflict can be resolved through talks when at least one of the parties involved views their position as mutually painful. The humanitarian requirement for engaging in negotiations frequently arises from humanitarian pressures, such as an international community that is scrutinizing the activities of a party, depleting resources, and/or incurring financial losses for allowing civilians to suffer.⁷ In accordance with Ripeness Theory, humanitarian negotiations occur at critical junctures, i.e., when the hospital system has collapsed or there has been a mass internal displacement of people.

Research Questions

RQ₁: How effective were humanitarian ADR mechanisms employed in Gaza (2023–2025) in facilitating humanitarian access and mitigating civilian harm when compared to traditional diplomatic approaches?

RQ₂: What institutional, procedural, and contextual factors determined the success or limitations of ADR mechanisms in the Gaza conflict?

⁵ Katie Shonk, “*What is Alternative Dispute Resolution?*”, PON (Nov. 26, 2025), <https://www.pon.harvard.edu/daily/dispute-resolution/what-is-alternative-dispute-resolution> (last visited on December 7, 2025)

⁶ David Petrasek, *Vive la différence? “Humanitarian and Political Approaches to Engaging Armed Groups (HD Centre 2005)”*, <https://www.hdcentre.org/wp-content/uploads/2016/07/VivelaDifference-October-2005.pdf> (last visited on December 8, 2025)

⁷ William Zartman, “*Ripeness’: The Importance of Timing in Negotiation and Conflict Resolution*”, E-INT’L REL. (Dec. 20, 2008), <https://www.e-ir.info/2008/12/20/ripeness-the-importance-of-timing-in-negotiation-and-conflict-resolution/>. (last visited on December 8, 2025)

THE NECESSITY OF HUMANITARIAN ADR IN GAZA: INSITITUTUIONAL PARALYSIS AND CIVIL COLLAPSE

The Humanitarian crises that have emerged in Gaza signify a situation where traditional military approaches, such as high-level political diplomacy, have proven to be largely ineffective in resolving and safeguarding the lives of civilians by ensuring and providing continued access to necessities of life, such as food, water, shelter, etc., in such a situation, ADR in terms of humanitarian protection such as mediation, negotiation, conciliation etc, facilitate a smoot coordination and dialogue which will be conducted by a neutral third party such as mediator, which is one of essential form of life saving mechanism in Gaza. The acute crises in Gaza represent that when an armed conflict is supplemented by siege conditions of human living, ADR becomes an important instrument through which humanitarian protection can be maintained. The conflict has exacerbated the human cost of survival in Gaza, with approximately 10,0000 fatalities among 1.9 million people, which is nearly 90% of the total population of Gaza, who were displaced and almost destroyed by civilian infrastructure⁸. This level of humanitarian crisis demonstrates that traditional political and legal channels of communication, such as the United Nations and the United Nations Security Council, have failed to enforce the binding resolution of the United Nations to halt the violence. This demonstrates the inadequacy of the conventional system of political dialogue when a country faces Humanitarian crises, such as Gaza. Structured ADR(ADR) processes offer the only viable method of creating even the most fundamental and transient rules to address humanitarian needs when formal systems are paralyzed due to widespread starvation and death. A dedicated forum that serves as a pragmatic response to the overwhelming need for alleviating human suffering should focus exclusively on providing a means for creating rules to address this purpose, which is ADR's foundational goal. The civilian infrastructure has been destroyed beyond recovery, thus severely limiting Gaza's ability to provide for its citizens' basic human needs. The primary areas of destruction include healthcare facilities, road systems, water and waste disposal systems, and electricity systems. According to an UNRWA report on humanitarian assistance, it is estimated that approximately 94% of all health care facilities in the Gaza Strip have either been damaged or destroyed, essentially creating an environment where trauma care, maternal healthcare, and other routine medical services are crippled. Water

⁸ Amin, M, S., Wakil, I., Liaqat, B, B & Mustafa, G. (2025) “*Israel-Hamas war: A critical analysis of humanitarian challenges and UN agencies response*”, *Social Sciences Spectrum*, 4(2), 647-662. <https://doi.org/10.71085/sss.04.02.300> (last visited on 18 December, 2025)

and sanitation systems have suffered from significant underdevelopment, resulting in widespread outbreaks of infectious diseases and, consequently, high public health risks.⁹

Additionally, the blockade of the movement of spare parts, fuel, and medical supplies has caused hospitals to either stop functioning or become very inefficient. There is currently a critical shortage of Medical Supplies, diagnostic imaging equipment, and fuel for ambulances. These combined pressures have made it nearly impossible for people in Gaza, who are facing severe food insecurity, to have enough food to eat¹⁰.

Military operations or unilateral coercive measures will not resolve these issues. The military prioritizes security/strategy and conducts operations in areas that contain large amounts of civilians, raising the chance that military action will result in casualties and infrastructure loss. The International Committee of the Red Cross asserts that the use of inhumane or non-targeted weaponry can never be justified by military concern and that ensuring human rights must remain an integral part of responding to any conflict. The Gaza Strip is one of the most densely populated areas on Earth. Separating civilians from combatants is a difficult operation, and the conflict will increase civilian suffering regardless of military results. The restoration of healthcare services, water supply, fuel access, and food distribution can only be achieved through minimal levels of cooperation and agreement among combatants. In this way, ADR techniques, such as humanitarian mediation or negotiation, become essential in establishing legal norms and standards for providing aid.¹¹

The nature of military strategies makes them a poor choice for solving humanitarian problems, especially in countries like Gaza that have a high population density. While military actions may have the intention of securing an area, they cannot provide food, operate a hospital, transport patients, or repair a water distribution system. The result of continual military

⁹ United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), “*Gaza Flash Appeal 2025*” 1 (May 2025), https://www.unrwa.org/sites/default/files/content/resources/opt_flash_appeal_2025_english_final_22.pdf (last visited on 19 December, 2025)

¹⁰ Oxfam Int’l, Oxfam: “*Humanitarian Operations in Gaza Severely Hampered; Famine Risks Increasing*” (Mar. 24, 2025), <https://www.oxfam.org/en/press-releases/oxfam-humanitarian-operations-gaza-severely-hampered-famine-risks-increasing> (last visited on 19 December, 2025)

¹¹ “*International Committee of the Red Cross, Military Needs Can Never Justify Using Inhumane or Indiscriminate Weapons*”, Statement to the U.N. Gen. Assembly First Comm. (Oct. 18, 2019), <https://www.icrc.org/en/document/military-needs-can-never-justify-using-inhumane-or-indiscriminate-weapons-1> (last visited on December 25, 2025)

escalation creates more victims from among the civilian population and increases the potential for spillover conflict into neighboring countries. Given this fact, ADR(ADR) acts as a necessary counterbalance to the military. While military action pursues control, ADR pursues coordination, and while military action uses force to escalate, ADR uses communication to stabilize. Humanitarian ADR does not attempt to solve the political disputes underlying war; instead, it creates a space in which humanitarian assistance can be provided to civilians, allowing them to survive while the battle continues.

Therefore, ADR can be viewed as a function within international law and as a way to address humanitarian concerns in situations where military operations cannot do so. The most valid application of ADR to Gaza can be seen in three separate humanitarian mediation tracks in use, all of which are classic forms of ADR.

(1) Aid Access Mediations: Neutral mediators craft agreements between governmental and non-governmental organizations (NGOs) about how medical supplies, food, clothing, etc., can enter, be inspected, and distributed within Gaza. This process is an example of ADR because it involves the element of facilitation or enhancing trust between both parties, which ultimately may lead to the establishment of an agreement, contingent on specific conditions.¹²

(2) Safe Humanitarian Corridors: To create safe corridors means that NGOs and governments must guarantee that no attacks occur during times designated for humanitarian relief. The coordination of these timeframes requires negotiation and mediation skills and involves the need for third-party deputy monitors to observe compliance with the previously agreed conditions¹³.

(3) Humanitarian Medical Evacuations: Medical evacuations of critically ill or severely injured civilians require negotiation for permits, security assurances, and ADR fully integrates logistical arrangements¹⁴.

¹² Lauren Phelps et al., “*Humanitarian Negotiations with Armed Actors: The State of Evidence*”, 5 *Humanitarian Pol’y Grp. Rsch.* 1 (2022), <https://link.springer.com/article/10.1186/s41018-022-00131-0> (Last visited on 25 December 2025)

¹³ International Committee of the Red Cross, “*How Humanitarian Corridors Work (overview of negotiation and implementation of humanitarian corridors)*,” ICRC, <https://www.icrc.org/en/document/how-humanitarian-corridors-work> (Last visited on 25 December 2025)

¹⁴ International Committee of the Red Cross, “*Neutral Intermediary (describing ICRC’s role in mediation and humanitarian negotiation)*”, ICRC, <https://www.icrc.org/en/what-we-do/neutral-intermediary> (Last visited on 25 December 2025)

(4) Hostage/Prisoner Exchanges: One of the best illustrations of how ADR can be employed during combat operations is hostage and prisoner exchanges, which represent the classic use of indirect negotiation, mediation by third parties¹⁵.

THEORETICAL FOUNDATION OF HUMANITARIAN ADR IN ASYMMETRIC WARFARE

In conventional ADR(ADR), it was primarily developed through our civil justice systems, which have provided sufficient certainty about which laws apply, defined who may bring a dispute forward through the courts, and, more importantly, have provided an efficient mechanism for executing the judgments rendered by our courts. Alternative forms of Dispute Resolution, such as mediation and Negotiation, as well as Arbitration, exist in a manner that allows either type of ADRprocess to serve as the basis for a legally binding agreement that can be enforced in the same manner as a court order. When attempting to apply these forms of ADRto armed conflict (i.e., asymmetric warfare), we quickly discover that the assumptions underlying these models are no longer applicable due to fragmented authority, the presence of armed non-state actors, and the absence of legally enforceable contracts. The current Gaza conflict clearly illustrates the need for ADR in conflict areas to serve as a humanitarian means of providing for the governance of violence and to reduce civilian casualties while military operations are ongoing.¹⁶

This difference between armed groups and state militaries is particularly apparent in the ongoing Gaza conflict. Hamas, as well as other armed factions, lacks the centralized military structure that most State Militaries possess, and agreements reached are usually seen as "understandings" rather than legally binding agreements, thus creating a less stable framework for conducting ceasefire negotiations due to the volatility of compliance. The absence of a cohesive Palestinian political entity also creates challenging conditions for mediators to operate under when trying to broker a ceasefire.¹⁷

¹⁵International Committee of the Red Cross, "*How Humanitarian Corridors Work (overview of negotiation and implementation of humanitarian corridors)*", ICRC, <https://www.icrc.org/en/document/how-humanitarian-corridors-work> (Last visited on 25 December 2025)

¹⁶ Marko Milanovic, "*Classifying the Gaza Conflict under International Humanitarian Law: A Complicated Matter, EJIL*": TALK! (July 3, 2014), <https://www.ejiltalk.org/classifying-the-gaza-conflict-under-international-humanitarian-law-a-complicated-matter/> (last visited on December 22, 2025)

¹⁷ Int'l Comm. of the Red Cross, Israel-Hamas Cease-fire in Gaza, "*Crisis Group*" (June 7, 2024), <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/israelpalestine-united-states/gaza-ceasefire>. (last visited on December 22, 2025)

In such a situation of multi-asymmetric warfare, multi-track diplomacy plays a very crucial role in providing a more accurate lens for understanding the crises and the essential application of ADR in a warfare situation. It is evident from the situation in Gaza that contemporary conflict resolution mechanisms involving only Track I diplomacy, which is a state-centric approach, were insufficient. Track I diplomacy often involves official actors through negotiation between the state and the political representative. Track II diplomacy involves the informal engagement of non-governmental actors, including NGOs, humanitarian organizations, and independent organizations. Track III diplomacy operates at the grassroots level by engaging local communities, civil society, and informal network players who have the capacity to shape compliance in the ground reality¹⁸.

In the Gaza humanitarian conflict, no single track is sufficient; it requires a hybrid of all three tracks to resolve humanitarian crises effectively. Although organizations like Hamas may not technically be classified as states under international law, they continue to possess significant real-world power. Track II dialogue processes help build trust among the key armed groups by allowing negotiators to work through issues behind the scenes. Track III initiatives provide an opportunity for the local population, religious leaders, and civil society to create their own sense of ownership regarding peace in the community. This type of multi-track diplomacy (engaging in multiple dialogues within a singular context is necessary to help promote peace in places such as Gaza, where there is significant political fragmentation and deep-seated mistrust between party leaders and the general public.

Through this hybrid model, neutrality is a defining element of the humanitarian ADR framework. The International Committee of the Red Cross has stated that neutrality enables humanitarians to access all areas across frontlines while allowing them to engage with all parties without conferring political legitimacy. As a result, in the context of Gaza, humanitarians can act as trusted intermediaries by facilitating negotiations and operational agreements between parties during times of high animosity and distrust. Inherent to the notion of neutrality is the principle of non-harm. As such, when engaging in humanitarian mediation, humanitarians must avoid the potential to reinforce violence, legitimize the damage inflicted upon an individual or group, or exacerbate existing power imbalances. As a result, the ICRC has identified that well-designed humanitarian arrangements may inadvertently elicit

¹⁸ Joseph P. Folger & Sheryl A. Roberts, *“Track I–Track II Cooperation, Beyond Intractability”*, https://www.beyondintractability.org/essay/track_1_2_cooperation. (last visited on December 22, 2025)

retaliation or, conversely, entrench armed control over a specific area. Within Gaza's densely populated environment, humanitarian ADR focuses on the use of a previously described methodology that involves careful sequencing, limited objectives, and ongoing risk assessment to ensure that humanitarian ADR operations mitigate harmful impacts, rather than creating additional harm.¹⁹

Mediator leverage is one of the key components of successful ADR(ADR) for cases of asymmetric conflict, such as in Gaza, where intense disparities exist between parties at every level, including power, legitimacy, and enforcement capacity. As there is no single mediator with sufficient leverage to enforce compliance in the Gaza conflict, it is imperative to employ multi-party mediation. The United States and Egypt are the primary sources of material mediator leverage for state actors in the conflict. The U.S. utilizes its military aid, diplomatic support, and political pressure against Israel as leverage. At the same time, Egypt's blockade of the Rafah crossing provides Egypt with essential logistical and humanitarian leverage in determining the timing of ceasefires and the necessary humanitarian access that is a part of these agreements. Political leverage is also crucial to political actors like Qatar, whose continued engagement with Hamas and assistance to Gazans provide political access and economic leverage not available to many state actors, allowing indirect negotiations to occur when direct talks fail. Examples of humanitarian and symbolic leverage include institutions such as the United Nations (UN) and the International Committee of the Red Cross (ICRC). The UN and ICRC derive their authority from their legitimacy on an international level, their neutrality, and their moral authority, rather than through force. The ICRC's ability to employ its procedural leverage has enabled it to provide some form of compliance through control over the mechanisms that facilitate the safe passage of people or goods, the exchange of prisoners, and the provision of humanitarian aid, even in the absence of any enforceable agreements (ICRC).²⁰ As a result of the way that the ICRC has distributed its leverage among the players in Gaza, it will be necessary for multi-party mediation to take place: all of the elements required for a successful mediation process in Gaza – Egypt's geographical control in Gaza, Qatar's access to the Israeli-Palestinian crisis at the political level, United States influence over Israel,

¹⁹ Neutrality: “*A Lifeline Across Front Lines, International Committee of the Red Cross (ICRC)*” (Aug. 20, 2020), <https://www.icrc.org/en/article/neutrality-war-lifeline-across-front-lines> (last visited on December 23, 2025)

²⁰ “*Qatar, Egypt and the United States Successfully Mediate Gaza Agreement*”, Mediate.com (Dec. 3, 2023), <https://mediate.com/news/qatar-egypt-and-the-united-states-successfully-mediate-gaza-agreement/> (last visited on December 24, 2025)

and UN/ICRC humanitarian authority – must work together to address the demands for state security and the non-state's political grievances.

OPERATIONAL FORMS OF HUMANITARIAN ADR IN THE GAZA CONFLICT

As the conflict in Gaza evolves, so too have the methods of peace-making. During the first Intifada in 1987, the Palestinians refused to abide by Israeli courts—leading to a weak central judiciary.²¹ In response, the Islah conciliation committees resolved over 70% of the disputes that arose during that period, with more than 55% of them being resolved through mediation, according to studies conducted between 2001 and 2005. Following 2007, upon seeing the success of the Islah committees, the Rabita committee, a Hamas-affiliated customary dispute resolution body, institutionalized them, signifying a shift to organized dispute resolution during a period of distrust among the occupations.²² Although dispute resolution began to take on a more formal role due to its institutionalization, the conflicts it faced were unprecedented and could not be handled through mere negotiations and peace talks.²³ Consequently, more humanitarian and conflict-sensitive methods of conflict resolution were deployed to meet the growing needs of the situation.²⁴

The present-day Gaza conflict requires a time-bound, problem-specific, and non-adjudicatory ADR approach. Hence, rather than solely focusing on resolving the dispute in the short term and long-term political changes, humanitarian mediation prioritizes immediate humanitarian assistance.²⁵ The Gaza conflict has been persistent since the 1900s, and more often than not, the focus is solely on concluding the conflict without considering the minor issues that act as barriers, preventing a comprehensive peace solution from being achieved.²⁶ The primary parties in such mediations are neutral third parties – often humanitarian organisations, such as

²¹ NATHAN J. BROWN, *“PALESTINIAN POLITICS AFTER THE OSLO ACCORDS: RESUMING ARAB PALESTINE”* (Univ. of Cal. Press 2003) <https://external.dandelon.com/download/attachments/dandelon/ids/DE006C7EFCA1A8F82189EC1257A3600453722.pdf> (last visited on December 24, 2025)

²² Sara Roy, *“Hamas and Civil Society in Gaza: Engaging the Islamist Social Sector”*, 30 MIDDLE E. J. 21, 34–38 (2007) <https://cms.dijitalhafiza.com/wp-content/uploads/2022/03/Hamas-and-Civil-Society-in-Gaza-1.pdf> (last visited on 23 December, 2025)

²³ David Mednicoff, *“Humanitarian Mediation in Armed Conflict”*, 93 INT’L Rev. Red Cross 459, 462–70 (2011) <https://www.cambridge.org/core/publications/journals> (last visited on 24 December, 2025)

²⁴ *Id.*, at 468–69.

²⁵ *Id.*, at 463.

²⁶ *Id.* at 470.

the International Committee of the Red Cross.²⁷ These parties play a crucial and intermediary role. Their neutrality and long-standing relationships with the parties allow them to be non-biased mediators that help communicate the needs of the Palestinians to the Israelis, hence giving way to humanitarian access, medical assistance, hostage negotiations, rations, and temporary pauses in civilian hostilities.

Negotiation was also used as a way to determine the modalities of humanitarian warfare under conditions of active warfare, i.e., it was employed as a mechanism to assess the technical necessities required to provide humanitarian relief to civilians in conflict zones.²⁸ Following the events of October 7th, 2023, it became almost impossible to transport humanitarian relief past Israeli borders and through the Rafah Crossing and finally into Gaza, as the Israeli government feared Hamas would use the convoys carrying the same for other purposes due to their influence over internal distribution.²⁹ Consequently, a negotiation between Palestine and Israel, with Egypt as the middle ground, took place at international organisations like the United Nations Health Relief and Works Agency and the ICRC. The negotiations in question focused on determining the number of trucks that could enter the war zone, classifying the items allowed to enter, allowing the Egyptian side of Rafah to conduct inspections, and drawing a line for the distribution of aid in Gaza. There was another similar instance when the transfer of oil into Gaza was halted because there were allegations that Hamas was using it for military activities.³⁰ Hospitals, ambulances, power plants, and water desalination facilities all depended on this fuel, raising urgent concerns.³¹ Through compartmentalised negotiations, a contingent agreement was formed, allowing a limited amount of fuel only to UN-operated hospitals while maintaining a strict record of its use and subjecting the same to vigilant monitoring.³²

Further, ADR has been utilized to impose short-term humanitarian ceasefires, which are commonly referred to as "days of calm. The war's short-lived periods of silence are vital not

²⁷ Int'l Comm. of the Red Cross, "Professional Standards for Protection Work Carried Out by Humanitarian and Human Rights Actors (2018)", <https://www.icrc.org/en/publication/0999-professional-standards-protection-work-carried-out-humanitarian-and-human-rights> (last visited on 24 December, 2025)

²⁸ Mednicoff, *supra* note 21, at 465-470.

²⁹ U.N. Off. for the Coordination of Humanitarian Affs., "Humanitarian Access Snapshot – Gaza Strip (2023–2024)", <https://www.ochaopt.org/content/humanitarian-access-snapshot-gaza-strip-1-30-april-2024> (last visited on 24 December, 2025)

³⁰ *Id*

³¹ World Health Org., "oPt Emergency Situation Update (2023–2024)", <https://www.emro.who.int/opt/information-resources/emergency-situation-reports.html> (last visited on 25 December, 2025)

³² U.N. off. for the Coordination of Humanitarian Affs., *supra* note 27

only for the transportation of humanitarian supplies but also for the evacuation of non-combatants and the mending of emergency facilities.³³ These short-term ceasefires do not carry the same level of international pressure as a permanent ceasefire, making them more viable due to their informality and the lower pressure of long-term commitments.

Medical evacuations were made possible through indirect, case-by-case talks involving Egypt, Hamas, Israel, and leading humanitarian intermediaries like the International Committee of the Red Cross. These highly detailed negotiations included the identification of patients, verification of civilian status, security guarantees along the evacuation routes, and coordination at Rafah Crossing, as well as acceptance by hospitals in Egypt or other receiving states. The permissions for evacuations were temporary and revocable, which meant that continuous renegotiation was required; there was no permanent framework for regulating evacuations.³⁴ This shows that the humanitarian ADR in Gaza is fragile and precarious since military or political decisions can result in access being cut off at any time.³⁵

ADR(ADR) proves to be very beneficial in extreme asymmetric case scenarios, as shown by the example of hostage and prisoner exchanges.³⁶ Egypt and Qatar mediated indirect negotiations before the humanitarian pause in November 2023, with the ICRC handling the technical aspects of the handovers. It is worth noting that there was no legally binding agreement between the parties involved in these deals. The fact that the international community was watching made it possible to get compliance through third-party verification, mutual humanitarian incentives, and the threat of being discredited if one did not comply. Even though these ADR processes were inherently temporary and unstable, they still produced significant humanitarian effects, including the evacuation of critically ill patients, the release of people, and a minor decrease in combat.

LEGAL, ETHICAL, AND STRUCTURAL CONSTRAINTS ON HUMANITARIAN ADR

During the periods of conflict between 2023 and 2025, the methods of ADR(ADR) utilized in Gaza not only showcased their limitations but also highlighted their necessity at the same time.

³³Int'l Comm. of the Red Cross, "Humanitarian Pauses and Ceasefires" (2024) <https://www.icrc.org/en/document/how-humanitarian-corridors-work> (last visited on 24 December, 2025)

³⁵Mednicoff, *supra* note 21, at 469-473.

³⁶Andrew D. Mitchell & Thomas Voon, Asymmetry and Consent in International Negotiations, 47 Geo. J. INT'L L. 225, 241-44 (2016).

Humanitarian ADR in Gaza is conducted under continuous warfare, split authority, and a lack of legal guarantees that can be enforced, unlike domestic or commercial ADR. While inherently unstable and temporary, these ADR processes managed to produce significant humanitarian results, including the evacuation of seriously ill patients, the liberation of people, and minor decreases in violence. Hence, any assessment of humanitarian ADR in Gaza needs to consider both the factual realities of asymmetric conflict and siege warfare, as well as the applicable normative legal frameworks.³⁷

On a legal basis, the use of humanitarian ADR(ADR) must adhere to the fundamental principles of international humanitarian law (IHL), including the principles of distinction, proportionality, military necessity, and morality. Negotiations over medical evacuations, humanitarian access, or short ceasefires cannot be used to justify acts that are contrary to these principle. The limitation was evident in the course of discussions about fuel supply and aid routes in Gaza, where violence was occurring in areas with a high density of civilians. To stop illicit actions like indiscriminate attacks, denial of access for civilians to necessities, or collective punishment, the mediators had to ensure that the operational agreements did not imply acknowledgement of such practices.³⁸ Consequently, humanitarian ADR agreements were restricted and regarded as technical and time-limited contracts, thereby avoiding any political or legal sanction associated with large military operations.³⁹ Neutrality and ethical restrictions have become of the utmost necessity. Neutrality is both a condition for access and a moral requirement.⁴⁰

Organizations such as the International Committee of the Red Cross, whose interaction with all frontline parties is determined by strict neutrality, require no political influence. The divisive international debate and the fact that the states have classified Hamas as a terrorist organization have made it difficult to stay neutral in Gaza. As a result, humanitarian actors have utilized functional participation as an option, thereby failing to attain political recognition and limiting their communication to humanitarian objectives. This method protects access but also limits the outcomes of ADR to transactions, rather than enduring changes.

³⁷ Mednicoff, *supra* note 21, at 474.

³⁸ Jean-Marie Henckaerts & Louise Doswald-Beck, “*Customary International Humanitarian Law*”, vol. I: Rules (Int’l Comm. of the Red Cross & Cambridge Univ. Press 2005).

³⁹ Mednicoff, *supra* note 21, at 476.

⁴⁰ Int’l Comm. of the Red Cross, *supra* note 25

Moreover, the presence of extremely unequal power relations is another serious drawback. The traditional ADR system puts forward the voluntary involvement of the disputing parties, who essentially have equal power. The case of Gaza, where negotiations continue between a non-state player that controls the populace and a state player that has military superiority, brings this differentiation into significant question. It is under such circumstances that limited humanitarian access agreements are often made, where denial may prove disastrous for the civilians involved. Although such arrangements might ease acute suffering, they still pose a risk of normalising deprivation and entrenching inadequate compliance with humanitarian obligations.⁴¹ The case of Gaza is a constant reminder that the circumstances under which consent is given should be factored in when gauging the effectiveness of humanitarian ADR.⁴²

Another limitation is the link between international accountability systems and humanitarian ADR(ADR). The parties can't avoid accountability for war crimes through humanitarian negotiations. The confidentiality inherent in ADR, however, makes the collection and attribution of evidence even more challenging. Besides governance and master courts, these conflicts can be solved through the co-implementation of the involved parties' selective negotiation process and judicial involvement. The statement showcases the need for more precise institutional divisions between the judicial process and the humanitarian involvement in matters concerning the victims in Gaza, where international investigations are ongoing.

Among the drawbacks, empirical data from Gaza offer a viable schema for humanitarian ADR in the coming years. The most effective are very specifically delineated and achievable goals; multi-actor mediation in conflicts of unequal power increases compliance; the proper moment is essential, with ADR being most suited for the very critical time of humanitarian crises; and the acceptance of the process depends mainly on the explicitness of the humanitarian aim rather than on the popularity of the process.⁴³

Humanitarian ADR(ADR) in Gaza is circumscribed by the rigid ethical and legal limits imposed by international humanitarian law, the principle of neutrality, the prevailing power imbalance, and the lack of enforcement.⁴⁴ Not only do these constraints delineate the boundaries of ADR's approval, but they also limit its capacity for conflict resolution. When

⁴¹ Henckaerts & Doswald-Beck, *supra* note 36, at 301–05.

⁴² Mednicoff, *supra* note 21, at 479.

⁴³ Mednicoff, *supra* note 21, at 480.

⁴⁴ Henckaerts & Doswald-Beck, *supra* note 36.

effectively designed, humanitarian ADR(ADR) enhances international law by minimizing civilian casualties in areas where official legal and political processes have become paralyzed.

EMPHRICAL LESSONS FROM GAZA: DESIGNING FUTURE HUMANITARIAN ADR FRAMEWORKS

The conflict in Gaza from 2023 to 2025 presents a rare and exceptional case study for empirical analysis, illustrating the operation of humanitarian ADR(ADR) at its best in highly challenging circumstances, including a long-lasting blockade, a vast power imbalance, and frozen institutions. In the case of Gaza, humanitarian ADR often was the only available solution for providing immediate civilian protection, whereas in other conflict zones, ADR merely supported diplomatic or judicial procedures. According to the facts established through access conversations, humanitarian pauses, medical evacuations, and hostage exchanges, ADR has the power to reduce violence in cases where formal procedures are not applied. Still, it is incapable of resolving conflicts altogether.⁴⁵

The central empirical finding from the Gaza case is that humanitarian ADR (ad hoc) is most effective when its aims are well defined and pragmatic. Clearly defining the goals, such as the number of aid trucks allowed through Rafah, the distribution of fuel to specific hospitals, or the evacuation of named patients, proved to be much more fruitful than general discussions framed around ceasefires or political de-escalation. Even though comprehensive peace talks often collapsed in 2023 and 2024, partitioned humanitarian discussions nonetheless provided access to food, medical care, and evacuation routes on occasion. Thus, the Gaza experiment demonstrates that ADR does not address the issue; instead, it severs the connection between humanitarian matters and political negotiations, leaving the latter to be addressed.

The second realisation implies that legitimacy in the intermediate stage is more crucial than the formal authority. In Gaza, no mediator was empowered to enforce compliance.⁴⁶ But the main attributes that made the mediator effective were access, neutrality, and credibility. ICRC was one of the organizations that did not use force but rather gained the upper hand through long-standing partnerships, confidentiality, and commitment to humanitarianism.⁴⁷ Regional players, such as Egypt and Qatar, for instance, primarily relied on communication lines, access points, and political trust rather than legal power to exert influence. Empirical evidence

⁴⁵ Mednicoff, *supra* note 21, at 48-483

⁴⁶ Mednicoff, *supra* note 21, at 485.

⁴⁷ Int'l Comm. of the Red Cross, *supra* note 25.

suggests that when multiple intermediaries collaborate, the outcomes of partly negotiated settlements are most assured through a blend of political and logistical power, combined with humanitarian legitimacy.

The third point is that Gaza is an illustration of the significance of timing. The ADR in the humanitarian realm was most effective during the worst times, for instance, the total breakdown of hospital facilities, large-scale evacuations from northern Gaza, or the drawing of international attention after the heavy loss of civilian life. The unwillingness to cooperate became too much to bear for at least one party during what negotiation theorists call "ripeness" of the humanitarian situation. In practice, this meant very short periods of time for negotiating pauses, evacuations, or humanitarian access.⁴⁸ So, rather than focusing on durability, the Gaza case suggests that humanitarian ADR should be designed for fast deployment and easy re-negotiation.

The fragility and reversibility of humanitarian accords make up another empirical lesson. Almost all ADR in Gaza turned out to be provisional, conditional, and revocable.⁴⁹ To begin with, the cancellation of convoy licenses, the collapse of humanitarian pauses, and the sudden termination of evacuation approvals all contributed to exposing the loophole in the ADR.⁵⁰ Yet, it did not make ADR perfectly useless. Instead, it denotes that the triumph in humanitarian ADR should be considered in relation to the total, rather than the separate cases.⁵¹ Micro-agreements that were repeatedly made collectively made the situation of the civilians less dangerous over time, even if no single accord made a significant difference.

The ethical and distributional dangers of humanitarian ADR are, to a large extent, the lessons learned from the Gaza case. The access agreements negotiated at times conflicted with local power structures, resulting in issues such as diversion, unequal distribution, or the strengthening of armed groups' positions.⁵² As a reaction, the humanitarian actors more or less restricted their operations, required third-party monitoring, and agreed to be smaller in size in exchange for reduced risk.⁵³ This implies that future frameworks should treat the "not harm" criterion as one of the operational norms that influence ADR design, rather than being merely

⁴⁸ *Id.*

⁴⁹ Mednicoff, *supra* note 21, at 486-488

⁵⁰ U.N. off. for the Coordination of Humanitarian Affs., *supra* note 27.

⁵¹ Mednicoff, *supra* note 21, at 489.

⁵² Mednicoff, *supra* note 21, at 490.

⁵³ Int'l Comm. of the Red Cross, *supra* note 25.

a theoretical prescription. Risk evaluation, ultimately, must be viewed as an integral part of the ongoing process, rather than a one-time preliminary measure. Gaza exemplifies how rapidly the humanitarian impact can become a curse instead of a blessing if, for instance, the context changes.⁵⁴ Additionally, humanitarian ADR must be situated within a broader normative framework to ensure accountability and transparency. It is necessary to establish stricter institutional boundaries to ensure that confidentiality does not compromise international legal liability, while also avoiding confusion between ADR(ADR) and court procedures.⁵⁵

The observations made above should form the basis of a future humanitarian ADR paradigm in high-unattended geographical situations, such as Gaza. First, the use of humanitarian ADR(ADR) must be formalised within the framework of international law.⁵⁶ Still, at the same time, it should not be limited to legal channels only. Teams of mediators, highly trained and specialised in humanitarian issues within international organisations, could offer informal yet qualified access and maintain a mediating atmosphere that is light and friendly. Second, the infrastructure of ADR must acknowledge the multiparty mediation approach and thus should be only through a multi-actor mediation paradigm. That is because no single intermediary in such asymmetrical conflicts can be successful on their own. Third, humanitarian ADR(ADR) should be modular and sequenced, allowing agreements to be expanded, put on hold, or renegotiated as circumstances change. Humanitarian ADR(ADR) is neither a substitute for peace nor a distant international law issue, as evidenced by the Gaza crisis. Rather than being a concern of the country, it is a tool for the government with a practical aspect that operates under violence. The empirical evidence from Gaza supports the contention that humanitarian ADR(ADR) can, at times, alleviate the suffering of the civilian population, even though a political resolution remains very remote—if it is well-planned, narrowly focused, multi-actor, and ethically constrained. The experience from Gaza, rather than laying down a model that can be entirely repeated in future wars with blockade, division, and diplomatic deadlock, provides a framework that must be carefully adapted with prudence, humility, and legal expertise.

CONCLUSION: HUMANITARIAN ADR AS SURVIVAL MECHANISM RATHER THAN PEACE SUBSTITUTE

⁵⁴ Mednicoff, *supra* note 21, at 491.

⁵⁵ *Id*

⁵⁶ Henckaerts & Doswald-Beck, *supra* note 36.

The Gaza Conflict from 2023 to 2025 illustrates the necessity of rethinking how to approach humanitarian protection mechanisms within the contemporary context of asymmetric warfare, where traditional measures of diplomacy and military approaches have repeatedly failed to protect civilian lives in contexts of armed conflict. This research has shown that Humanitarian ADR(ADR) is not being used as a method for resolving political disputes but instead as an important method for protecting those who are vulnerable due to active warfare, by providing access to humanitarian resources, medical evacuations, short periods of ceasefires negotiated with combatants, and negotiated exchanges between parties to the conflict. The success of the use of humanitarian ADR within the context of the Gaza Conflict can be attributed to its ability to focus on very specific and short timed objectives, the establishment of neutrality and credibility within the context of the use of their mediators, and the incorporation of this method within multilateral diplomatic arrangements which are able to serve as a counterbalance to the institutional paralysis of parties to the conflict, and fragmented authority among those parties to the conflict. The case of Gaza also illustrates the structural vulnerability associated with these types of methods due to the limitations of ADR arising from the significant power differentials that exist between parties to the conflict, the limitations placed on ADR by existing ethical constraints established by international humanitarian law, and the present lack of any enforceable guarantee of the outcomes resulting from ADR attempts. Nevertheless, if humanitarian ADR is designed carefully and applied within the context of ethical principles, and is applied pragmatically within the context of its objectives, it may serve to lessen the suffering of those who are displaced by war, and help to create a more stable humanitarian environment in cases where formal political and legal means of resolving disputes are not available.