

# EVA STALIN IAS ACADEMY

12/24, Muthuranga Mudali St, next to Deepam Hospital,  
West Tambaram-600045

## *The politics of humanitarian aid*

**W**hen United States Secretary of State Antony Blinken says that "100 percent of the population in Gaza is at severe levels of acute food insecurity" and that is the "first time an entire population has been so classified", and, soon after, the U.S. Congress proceeds to stop funding till March 2025 to the UN Relief and Works Agency, or UNRWA (it is the only UN agency delivering lifesaving humanitarian aid to millions of Palestine refugees living in the Gaza Strip, West Bank, East Jerusalem, Jordan, Lebanon, and Syria), then the politics of humanitarian aid is back in full play – by implication, politics with human life, with Palestinian lives.

Ironically, this comes at a time when some western countries, which had announced defunding UNRWA, have 'realised' that Israeli allegations are unsubstantiated and are resuming funding. But there is a crucial political angle. Defunding UNRWA would mean tacitly derecognising Palestinian refugees and effectively killing one of the contentious unresolved issues for Palestinian statehood – right of return of refugees. This is what Israel had demanded all along.

There is no free lunch. There is no free lunch in geopolitics either. Even if it means starving millions to achieve one's political or military goals. This is not just about Gaza, though Gaza is the latest example.

### **Gaza waits for a pier**

The announcement by U.S. President Joe Biden to build a temporary pier off the Gaza coast in the Mediterranean Sea to deliver humanitarian aid to Palestinians holed up in Gaza is an example of how a simple act of sending food and medicines to a population that has been starved of both can become hostage to politics. All Israel has to do is to allow food convoys to go in from a land opening in Rafah or Karem Abu Salem. And all that the U.S. has to do is to ask Israel, a country dependent fully on the U.S. to prosecute this war, not to block aid convoys. But the U.S. did not ask Israel this. Instead, it undertook the air drop of food packets - 38,000 packets for 1.4 million Palestinians in Rafah. In a tragic incident in Gaza, Israeli soldiers shot and killed 112 Palestinians and injured hundred others who were waiting to collect food. Twelve people drowned while trying to retrieve packets which fell into the sea. A



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There are many  
examples  
across the  
world of  
politics  
trumping  
humanitarian  
assistance even  
if it means  
starving  
millions to  
achieve political  
or military  
goals

political problem is being resolved militarily by treating it as a logistical problem.

As UN Secretary General Antonio Guterres said recently in Rafah, "From this crossing, we see the heartbreak and heartlessness of it all. A long line of blocked relief trucks on one side of the gates, the long shadow of starvation on the other... it is a moral outrage." Stopping humanitarian aid is a serious violation of international law. It also violates the interim order of the International Court of Justice for ensuring "effective and immediate" aid to Gaza. Now, Palestinians wait for a pier.

In a significant, if much belated, development on March 25, the UN Security Council (UNSC) passed a resolution calling for "an immediate ceasefire for Ramadan ... leading to a lasting sustainable ceasefire" but also ensuring the release of hostages and humanitarian access. The U.S. abstained on the vote. However, as the French Ambassador to the UN warned, the crisis is not over and that "after Ramadan, which ends in two weeks, it will have to establish a permanent ceasefire".

But first, will Israel respect the resolution and observe a ceasefire at all? And allow humanitarian aid? Israel is in no mood to do so. For Hamas to agree to return Israeli hostages, both dead and alive, they want Palestinian prisoners in exchange. The fear is that after that exchange, and after Ramadan, Israel will be free to resume the war – this time as a fight to the finish where Hamas will hold no cards to negotiate for peace. The U.S. has backtracked by dubbing the resolution as "non-binding" and giving Israel a free hand to continue its bombing. And, politics triumphs. Not even a UN Security Council resolution can get humanitarian aid to the Palestinians in Gaza.

### **When India sent aid**

Using humanitarian aid for political ends in conflicts is as old as diplomacy itself. In a rare occurrence, we have had a State government in India provide humanitarian aid to a country. In 2008, the Dravida Munnetra Kazhagam under Chief Minister M. Karunanidhi of Tamil Nadu sent 80,000 'family packets' of food and clothes to the thousands of displaced Sri Lankan Tamil civilians, who the retreating Liberation Tigers of Tamil Eelam used as a human shield.

This was the DMK's political message, both to Tamil Nadu and Sri Lanka, that it cared for Sri

Lankan Tamils. To ensure that these packets reached Tamils behind the LTTE's frontlines, the Government of India (the DMK was a coalition partner at that time), requested the International Committee of the Red Cross to distribute them. In 2022, the Tamil Nadu Chief Minister (and Karunanidhi's son), M.K. Stalin, did one better and sent nearly 10,000 tonnes of food and medical aid to Sri Lanka during that country's economic crisis.

During COVID-19, even as vaccines were hoarded by the West, India sent vaccines to over 100 countries and showed compassion in diplomacy, demonstrating that not everything is hostage to realpolitik.

### **The case of Afghanistan**

In fact, when India was in UNSC (2021-2022), it has on numerous instances been witness to aid being used as a political weapon. For example, due to pressure from the P-5 (the five permanent members of the UNSC) and others to establish political relations with the Taliban, in December 2021, the UNSC agreed to open-ended humanitarian aid to Taliban, even without any progress on benchmarks set out in Council resolution, especially on the status of women. After two years, with aid freely flowing to the Taliban, the status of Afghan women has only deteriorated. But the world now has Ukraine and Gaza on its hands and would rather forget the women of Afghanistan.

The UNSC has also witnessed politics trump humanitarian aid be it in Syria, Ethiopia, Yemen and elsewhere, placing innocent civilians in great distress. In Syria, since the U.S., Turkey and western and Gulf backers failed to overthrow Syrian President Bashar al-Assad, they now play politics with aid by stationing their troops in northern Syria and regulating aid only to Syrians under their control through their checkpoints. This was the case in Yemen. In Ethiopia, since the Tigray People's Liberation Front (TPLF) was backed by the West, humanitarian aid was used as a tool to subject the Ethiopian government to political pressure. It is now the turn of Sudan. Nearly 25 million Sudanese, including 14 million children, wait for elusive external aid as internal conflict rages on and barely 5% of estimated funding requirement has been met so far.

And so, around the world, people wait patiently for food and medicine, amid fights and leaders paying scant regard to their fate.

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## WTO's investment facilitation negotiations are not illegal

One of the significant developments at the 13th Ministerial Conference (MC13) of the World Trade Organization (WTO) in Abu Dhabi was the non-adoption of the agreement on investment facilitation for development (IFD). Despite opposition from countries such as India, negotiations for an IFD agreement at the WTO were launched in 2017 on a plurilateral basis by 70 countries. This was done through a process known as the Joint Statement Initiative. The IFD agreement was finalised in November 2023. Today, around 120 of 166 WTO member countries (more than 70% of the membership) back the IFD agreement. This agreement aims to create legally binding provisions to facilitate investment flows.

In Abu Dhabi, these 120 countries wanted to include the IFD Agreement as a plurilateral agreement (PA) within Annex 4 of the WTO Agreement. It is critical to recall that while the WTO is a multilateral trade organisation, Article II.3 of the WTO Agreement categorically allows for PAs. These PAs bind those WTO member countries that accept them and do not create rights or impose obligations on the remaining members.

### India's concerns

The IFD Agreement, among other things, will require states to augment regulatory transparency, and streamline administrative procedures to bolster foreign investment inflows. Importantly, this agreement does not contain provisions on market access, investment protection, and investor-state dispute settlement (ISDS). ISDS, which allows foreign investors to bring treaty claims against the state admitting investment, has been a contentious issue in recent years. Given the existing structure of the WTO's dispute settlement mechanism, where only states can bring legal claims against other states, it is implausible that ISDS can be a part of it.

India and South Africa played a crucial role in not letting the IFD agreement become a part of



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India should reconsider its defensive approach towards plurilateral agreements such as the investment facilitation for development agreement

the WTO rulebook. India does not seem to be exceedingly concerned about the text of the IFD agreement. Instead, India's principal concerns are twofold. First, the question of whether investment can be part of the WTO. And second, the process followed to make the IFD agreement a part of the WTO rulebook.

### Investment is not trade

On whether investment can be part of the WTO, India's chief contention is that investment *per se* is not trade. In other words, investment could or could not result in cross-border trade. This argument flies in the face of economic literature supporting an inextricable linkage between trade and investment. According to the Organisation for Economic Co-operation and Development, about 70% of international trade occurs through global value chains, which are characterised by trade and investment, thus proving the close relationship between the two.

Therefore, it is unsurprising that several modern-day free trade agreements, such as the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership include detailed investment provisions covering both facilitation and protection. Interestingly, India's newly minted trade agreement with the European Free Trade Association also contains provisions on investment, though it is restricted to facilitation and promotion measures.

Regarding the process followed in negotiating the IFD Agreement, India's foremost assertion is that there is no mandate to conduct negotiations on investment. India argued that in 2004, the WTO's General Council decided that the talks on the relationship between trade and investment – one of the so-called 'Singapore issues' because it was introduced at the 1996 WTO Singapore ministerial conference – would not take place as part of the Doha round of negotiations launched in 2001.

India also referred to the decision taken at the

2015 WTO Nairobi ministerial decision, which says that "any decision to launch negotiations multilaterally on [new] issues would need to be agreed by all members". Since all countries never agreed to launch negotiations on an IFD Agreement, according to India, IFD negotiations and the subsequent text that came up for adoption are illegal.

India is correct in arguing that there is a negative mandate to launch negotiations on the relationship between trade and investment. But two questions arise. First, does this negative mandate cover all aspects of investment, including facilitation? It is important to recall that the dropped investment agreement proposed at the 1996 Singapore ministerial focused on issues such as market access and investment protection. So, can the negative mandate include everything and anything on investment at the WTO?

Second, the negative mandate is to launch negotiations on new issues multilaterally. Will this also apply to negotiations launched on a plurilateral basis? The negotiations on an IFD agreement were launched not on a multilateral basis. While Article X.9 of the WTO Agreement states that the decision to add an agreement to the existing set of PAs listed in Annex 4 can be made 'exclusively by consensus', nothing in the agreement requires consensus to launch negotiations for a PA.

An essential function of the WTO is to update existing rules and make new ones to govern the increasingly complex nature of international trade. However, the WTO's decision-making process remains deadlocked because of the colossal difficulties in arriving at consensus. From this perspective, PAs such as the IFD agreement are essential for reinvigorating the WTO's stalemated legislative function. India, which will soon be the third biggest economy, should reconsider its defensive approach towards PAs, as in the proposed IFD Agreement in the WTO.

*The views expressed are personal*