

**House Foreign Affairs Committee
Tom Lantos Human Rights Commission**

**Hearing
on
Armed Conflict, Starvation and International Humanitarian Law**

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Framing the Issue – What is Starvation?

Man-made starvation is an ancient phenomenon. What is new is its use across modern conflicts, ushering in the re-emergence of multiple famines in 2017 and the rise of global hunger. Today, every instance of famine or acute food insecurity is, at its core, man-made, and the current scale of consequential suffering and death is unprecedented in recent history. Man-made starvation can be the result of bad governance, war tactics, and opportunism, further exacerbated by pre-existing vulnerabilities. The conduct becomes criminal when the requisite intention to starve the civilian population can be identified.

For the past five years we have witnessed the return of the deliberate and systematic use of starvation as a method of warfare in armed conflicts, both by depriving a civilian population of objects indispensable to their survival and by targeting humanitarian aid workers or otherwise preventing them from accessing those most in need. The conflicts in Ukraine, Tigray, Syria, South Sudan, and Yemen, to name just a few, reveal the devaluing of human life and the erosion of international laws and norms which protect civilians in conflict.

Almost four years have passed since the adoption of the UN Security Council Resolution 2417 (2018) (UNSC 2417),¹ in which the UN Security Council recognised the intrinsic link between hunger and conflict,² as well as the essential role of International Humanitarian Law (IHL) in preventing and addressing hunger in armed conflicts.³ UNSC 2417 explicitly condemns the deliberate use of starvation as a weapon of war and the intentional blocking of humanitarian access.⁴ It also recognises such violations may be war crimes for which perpetrators may be held accountable.⁵ UNSC 2417 underscores that conflict-induced hunger is a crime, and urges States, whenever a violation of such norms has been committed, to conduct independent and impartial investigations into the crime of starvation, and where appropriate take action against those responsible.⁶

¹ UN Security Council, 'Resolution 2417 (2018)', UN Doc. S/RES/2417 (2018), 24 May 2018 (hereinafter 'UNSC 2417'), [https://undocs.org/S/RES/2417\(2018\)](https://undocs.org/S/RES/2417(2018)).

² UNSC 2417, operative paragraph 1.

³ UNSC 2417, operative paragraph 2.

⁴ UNSC 2417, operative paragraphs 5-6.

⁵ UNSC 2417, p. 2.

⁶ UNSC 2417, operative paragraph 10.

Critically, under this landmark resolution is that investigations are being called for, reporting lines have been created, and a new momentum has emerged around the issue of conflict-induced hunger. Carried forward by that momentum in December 2019 through a Swiss-led proposal, Article 8 of the Rome Statute of the International Criminal Court was unanimously amended to include starvation as a war crime in non-international armed conflicts.⁷

This amendment was long overdue. Until 2019, the Rome Statute's prohibition of using starvation as a method of warfare was only applicable in international armed conflicts,⁸ despite customary international law containing the same prohibition in all conflict designations⁹ and UNSC 2417 making no such distinction. Apart from the war in Ukraine, all other current armed conflicts where starvation is present are non-international in nature. As such, the importance of this amendment cannot be understated.

GRC worked with Switzerland and the Netherlands during the amendment process. The collaboration continues in relation to their efforts to promote the ratification of the starvation amendment, as well as the enactment of the same prohibition in the domestic legislation of the ratifying states. Implementing and codifying the crime of starvation in domestic legal orders is of paramount importance and will certainly strengthen the legal framework for prosecution.

The Law

The term '**starvation**' refers to the intentional deprivation of objects indispensable to the survival of the civilian population (OIS) and the desire to bring about the outcome of starvation, which occurs when actors impede the capacity of targeted civilians to access the means to sustain life. The result of civilian casualties is not actually needed to meet the 'intention to starve' requirement, the only essential act or consequence within the offence of starvation is depriving civilians of OIS as part of the objective elements. It suffices to prove that the perpetrator has an intention to bring about the outcome of starvation, no matter if successful.

The 'means to sustain life' and the term 'OIS' are open-ended concepts. OIS encompasses foodstuff, agricultural areas for the production of foodstuffs (i.e., farmland), crops, livestock, drinking water, installation and supplies, irrigation works, medical supplies, means of shelter, fuel, and electricity. It can also be circumstance-specific, accounting for the climate and territorial variances, the characteristics of the victims (e.g., breast-fed children), as well as the public health situation.

To date, there has yet to be a case where a perpetrator has been tried for starvation as a war crime. So it is yet to be seen where the limit of OIS lies, or if there is a limit at all.

By the same token, there is no singular answer as to what a deprivation of OIS looks like and what one should be looking for. Deprivation can take many forms. Beside the attack, destruction, removal, or rendering useless of OIS (e.g., burning crops, polluting wells, and scorching fields), examples also include the intimidation or arrest of aid workers, the diversion of aid, the destruction of aid and the denial of access of aid to the population in need. The latter set of conducts – also known as humanitarian access violation –

⁷ 'Amendment to Article 8 of the Rome Statute of the International Criminal Court (Intentionally Using Starvation of Civilians)' <https://treaties.un.org/doc/Publication/CN/2020/CN.394.2020-Eng.pdf>.

⁸ Rome Statute, Article 8(2)(b)(xxv). <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.

⁹ See, e.g., Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules* (ICRC 2005), Rules 53-56; US Department of Defense Law of War Manual, §5.20: 'Starvation of civilians as a method of combat is also prohibited in non-international armed conflict.'

is arguably the worst type of violations. By their very nature, humanitarian access violations usually only occur after other violent acts have taken place, when a civilian population is already weakened and in need.

There are so many facets to conflict and hunger to be discussed, including why it has never been prosecuted. But in this statement I wish to highlight humanitarian access violations and to consider why this type of conduct is too often siloed within humanitarian operational challenges rather than within an accountability framework.

A cornerstone to IHL and the protection of civilians is the unimpeded passage of humanitarian relief and the absolute prohibition on wilful obstruction of relief. However, there perhaps is a tendency to view the obstruction of humanitarian aid as a slightly lesser crime. Whilst an airstrike on a grain store may hit the headlines, hindering the movement of indispensable supplies will usually not. Yet, rarely will one find restricting humanitarian access as a party's only violation. Indeed, a pattern of disregard of IHL prohibitions or failure to discharge IHL obligations, may be indicative of a perpetrator's intent.¹⁰

Selected GRC Investigations and Documentation of Starvation in Contemporary Armed Conflicts

Yemen

Yemen was the genesis of GRC's starvation work. We have been humbled to collaborate with our Yemeni partner, Mwatana for Human Rights, who was nominated for last year's Nobel Peace Prize.¹¹ It is with Mwatana that GRC launched the landmark 'Starvation Makers' report in September 2020.¹² The report follows several years of field research and documentation across Yemen where Mwatana interviewed thousands of victims, families, eye-witnesses, humanitarian workers, and paramedics. For the report, Mwatana conducted an additional 101 interviews across four governorates regarding the impacts that specific attacks and conducts have had on their access to food and water.

The report documents airstrikes by the Saudi/UAE-led coalition destroying, damaging, and/or otherwise rendering useless OIS such as agricultural areas, irrigation works, livestock, foodstuffs, water infrastructure, fishing boats, and fishing equipment.¹³ It also documents Ansar Allah's conduct that severely restricted civilians' access to food and water through their imposition of restrictions on humanitarian relief action and their widespread and indiscriminate use of landmines in wholly civilian areas.¹⁴

At the same time, parties to the conflict imposed restrictive measures, economic including the sustained withholding of public salaries, including a *de facto* naval and aerial blockade, adversely impacting access to food, water and other OIS including medical relief supplies and oil.¹⁵

The impact was, and remains, stark. GRC's legal analysis determined that the manner, timing, and repetition of attacks on food systems, as well as the restrictions on humanitarian access, support a finding of intentional starvation by both parties to the conflict.¹⁶

¹⁰ Wayne Jordash, Catriona Murdoch, Joe Holmes, Strategies for Prosecuting Mass Starvation, *Journal of International Criminal Justice*, Volume 17, Issue 4, September 2019, <https://academic.oup.com/jicj/article-abstract/17/4/849/5652244#>.

¹¹ Mwatana, 'Quaker organisations announce Nobel Prize nominations' (18 February 2021) <https://mwatana.org/en/nobel-prize-nominations>.

¹² GRC and Mwatana for Human Rights, 'Starvation Makers' (September 2020) (hereinafter 'Starvation Makers Report') <https://starvationaccountability.org/news-and-events/the-use-of-starvation-by-warring-parties-in-yemen-as-a-method-of-warfare>.

¹³ Starvation Makers Report, Section G.

¹⁴ Starvation Makers Report, Section H.

¹⁵ Starvation Makers Report, Section G, 5.2.2 and Section H, 3.4.4.

¹⁶ Starvation Makers Report, Sections G and H.

Tigray, Ethiopia

As the conflict in Tigray reaches the year and a half mark since the outbreak of hostilities on 4 November 2020, 4.6 million people, which is 83% of the civilian population in Tigray, is food insecure, whilst 2 million (37%) of the population is severely food insecure, according to the WFP's latest assessment.¹⁷ A record 9 million people are in dire need of humanitarian assistance.¹⁸ The dire humanitarian situation facing Tigray, a previously relatively food secure region, is unequivocally man-made.

The UN and other international bodies, NGOs, and media outlets have consistently reported on the targeting of OIS by the warring parties – namely the Ethiopian National Defence Forces (ENDF), the Eritrean Defence Forces (EDF), the Tigrayan People's Liberation Front/Tigray Defence Forces (TPLF/TDF), and the Amhara forces.¹⁹ Contemporaneously, parties to the conflict, and in particular the Ethiopian Government, completely blocked the passage of humanitarian aid, cutting off the population from essential food and water supplies necessary to keep them alive.²⁰ Further exacerbating pre-existing food security vulnerabilities, reports indicate that the widespread commission of conflict-related sexual violence by parties to the conflict against women and girls adversely affected their ability to access food and other basic commodities necessary for their survival.²¹

We commend the leading role that the US has taken in relation to Tigray: condemning atrocities committed, including the denial and obstruction of humanitarian assistance, referring to UNSC 2417,²² and swiftly issuing sanctions.²³ GRC in partnership with Bellingcat is conducting a unique joint open-source investigation looking to substantiate and corroborate GRC's findings from a previous legal submission on starvation-related conduct to the African Union's Commission of Inquiry on Tigray.²⁴ In the course of the

¹⁷ WFP, 'Tigray: Emergency Food Security Assessment' (21 March 2022) <https://www.wfp.org/publications/tigray-emergency-food-security-assessment>.

¹⁸ UN News, 'Northern Ethiopia: A Record 9 Million Now Need Food Assistance' (28 January 2022) <https://news.un.org/en/story/2022/01/1110802>.

¹⁹ For direct attacks, including looting of OIS see: Amnesty International, 'Demand Full Humanitarian Access into Tigray' <https://www.amnesty.org/en/get-involved/take-action/demand-full-humanitarian-access-into-tigray/>; Oxfam, 'Conflict Compounded by Covid-19 and Climate Change Pushes Millions in Tigray to the Brink' (22 January 2021) <https://www.oxfam.org/en/press-releases/conflict-compounded-covid-19-and-climate-change-pushes-millions-tigray-brink-oxfam>; The Economist, 'Soldiers have killed hundreds of civilians in Tigray' (27 February 2021) <https://www.economist.com/middle-east-and-africa/2021/02/27/soldiers-have-killed-hundreds-of-civilians-in-tigray>; Alex De Waal, 'Who Will Call Out Eritrea's War Crimes in Tigray?' (23 December 2020) <https://sites.tufts.edu/reinventingpeace/2020/12/23/who-will-call-out-eritreas-war-crimes-in-tigray/>; Cara Anna, 'Witnesses: Eritrean soldiers loot, kill in Ethiopia's Tigray' (26 January 2021) <https://apnews.com/article/tigray-ethiopia-news-2bdd10888f7717690847ad117f09f2d4>; The Guardian, "'Slaughtered like chickens': Eritrea heavily involved in Tigray conflict, say eyewitnesses' (21 December 2020) <https://www.theguardian.com/global-development/2020/dec/21/slaughtered-like-chickens-eritrea-heavily-involved-in-tigray-conflict-say-eyewitnesses>. For attacks which could be direct or indiscriminate, see Human Rights Watch, 'Ethiopia: Unlawful Shelling of Tigray Urban Areas' (11 February 2021) <https://www.hrw.org/news/2021/02/11/ethiopia-unlawful-shelling-tigray-urban-areas>.

²⁰ Declan Walsh, Abdi Latif Dahir, 'Why is Ethiopia at War With Itself?' New York Times (12 February 2021) <https://www.nytimes.com/2020/11/05/world/africa/ethiopia-tigray-conflict-explained.html>; NRC, 'Statement by Secretary General Jan Egeland: Aid still not reaching Tigray' (1 February 2021) <https://www.nrc.no/news/2021/february/statement-on-tigray/>; UN OCHA, 'Ethiopia – Tigray: Humanitarian Access Snapshot (July 2021)' (31 July 2021) https://reliefweb.int/sites/reliefweb.int/files/resources/ocha_ethiopia_210813_access_snapshot_tigray_july_2021.pdf; UN OCHA, 'Ethiopia – Northern Ethiopia Access Snapshot – September 2021' (30 September 2021) https://reliefweb.int/sites/reliefweb.int/files/resources/ocha_211210_access_snapshot_northern_ethiopia_sept_2021_final.pdf; UN OCHA, 'Ethiopia – Northern Ethiopia Access Snapshot – October 2021' (31 October 2021) https://reliefweb.int/sites/reliefweb.int/files/resources/ocha_ethiopia_211112_access_snapshot_northern_oct.pdf.

²¹ WFP, 'Tigray – a challenge to the UN day for the Elimination of Sexual Violence in Conflict' (18 June 2021) <https://sites.tufts.edu/reinventingpeace/2021/06/18/tigray-a-challenge-to-the-un-day-for-the-elimination-of-sexual-violence-in-conflict/>; UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, 'United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict, Ms. Pramila Patten, urges all parties to prohibit the use of sexual violence and cease hostilities in the Tigray region of Ethiopia' (21 January 2021) <https://www.un.org/sexualviolenceinconflict/press-release/united-nations-special-representative-of-the-secretary-general-on-sexual-violence-in-conflict-ms-pramila-patten-urges-all-parties-to-prohibit-the-use-of-sexual-violence-and-cess-hostilities-in-the/>.

²² Ambassador Richard Mills (US Deputy Representative to the UN), 'Remarks at a UN Security Council Briefing on Ethiopia and the Situation in Tigray' (26 August 2021) <https://usun.usmission.gov/remarks-at-a-un-security-council-briefing-on-ethiopia-and-the-situation-in-tigray/>.

²³ US Department of State, 'United States' Actions To Press for the Resolution of the Crisis in the Tigray Region of Ethiopia' (23 May 2021) <https://www.state.gov/united-states-actions-to-press-for-the-resolution-of-the-crisis-in-the-tigray-region-of-ethiopia/>; US Department of the Treasury, 'Treasury Sanctions Eritrean Military Leader in Connection with Serious Human Rights Abuse in Tigray' (23 August 2021) <https://home.treasury.gov/news/press-releases/jy0329>; Executive Order on Imposing Sanctions on Certain Persons With Respect to the Humanitarian and Human Rights Crisis in Ethiopia (17 September 2021) <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/17/executive-order-on-imposing-sanctions-on-certain-persons-with-respect-to-the-humanitarian-and-human-rights-crisis-in-ethiopia/>; US Department of the Treasury, 'Treasury Sanctions Four Entities and Two Individuals in Connection with the Crisis in Ethiopia' (12 November 2021) <https://home.treasury.gov/news/press-releases/jy0478>.

²⁴ GRC, 'GRC's Submission to the African Commission on Human and Peoples' Rights' Fact-Finding Mission to the Tigray' (11 August 2021) <https://starvationaccountability.org/news-and-events/grcs-submission-to-the-african-commission-on-human-and-peoples-rights-fact-finding-mission-to-the-tigray/>.

joint investigation, jointly we are focusing on a handful of specific incidents relating to the destruction of foodstuffs, food storage facilities, and the obstruction of humanitarian access and attacks on aid workers.

Ukraine

Since the full-scale Russian invasion in Ukraine started on 24 February 2022, international monitors and local CSOs have recorded a range of human rights abuses and IHL violations, some of which *prima facie* amount to war crimes. These crimes include all types of prohibited conduct from wilful killing and inhuman treatment, to attacking civilians and civilian objects. In addition, numerous reports indicate that Russian armed forces are depriving civilians of OIS and starvation is being used as a method of warfare.

Witnesses are reporting a grave lack of access to medical supplies and healthcare facilities. In some areas, from early in the hostilities, according to the UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator,²⁵ damage was caused to critical civilian infrastructure, such as health, electricity and water and sanitation, effectively leaving ‘civilians without the basics for day-to-day life’. As at 21 March 2022, 64 verified attacks on health care have been documented by the WHO, leaving civilians with no access to medical supplies and health facilities.²⁶

Russian forces have encircled several cities, cutting them off from essential supplies, including food, water, and humanitarian aid. The damage is especially severe in Volnovakha and Mariupol (Donetsk region); outskirts of Kyiv; Ivankiv, Dymer and Polissya districts of the Kyiv region; Chernihiv; Kherson; and Nova Kahovka (Kherson region). Russian attacks deprived these cities of OIS of the civilian populations within, by cutting off electricity, central heating, gas and water supplies. Moreover, Russian forces have denied access of essential humanitarian aid to encircled cities, while humanitarian corridors to evacuate are unreliable, dangerous and the often targeted.²⁷

Additionally, Russian forces have targeted farmland and agricultural machinery.²⁸ The EU Agriculture Commissioner highlighted that Russian armed forces are targeting Ukraine’s agricultural infrastructure, echoing Ukrainian intelligence reports of indiscriminate shelling and targeting of agricultural machinery, fields, and grain stores. The EU Commissioner for Trade has further outlined how Russian forces appear to be deliberately targeting food supplies and food storages.²⁹

This is a playbook familiar to anyone monitoring similar starvation crimes in Syria, Yemen, Tigray, or South Sudan.

²⁵ UN Security Council, ‘Amid Violence, Mass Forced Displacement, “Lives of Millions” of Ukrainian Civilians at Stake, Humanitarian Affairs Chief Tells Security Council’ (28 February 2022) <https://reliefweb.int/report/ukraine/amid-violence-mass-forced-displacement-lives-millions-ukrainian-civilians-stake>.

²⁶ WHO Regional Office for Europe, ‘Ukraine: 28 Days of War, 64 Verified Attacks on Health Care, and 18 Million People Affected’ (24 March 2022) <https://www.euro.who.int/en/media-centre/sections/press-releases/2022/ukraine-28-days-of-war-64-verified-attacks-on-health-care-and-18-million-people-affected>.

²⁷ Ukrainska Pravda, ‘В Волновоїх росіяне совершили геноцид, надо выходить – нардеп’ (‘People’s Deputy: Russians Committed Genocide in Volnovakha, Must Leave’) (28 February 2021) <https://www.pravda.com.ua/rus/news/2022/02/28/7326766/>; Novoye Vremia, ‘Мариуполь ведет ожесточенные бои с российскими оккупантами – мэр’ (‘Mayor: Mariupol is Fighting Fierce Battles with Russian Invaders’) (1 March 2021) <https://nv.ua/ukraine/events/voyna-rossii-protiv-ukrainy-mariupol-vedet-ozhestochennye-boi-novosti-ukrainy-50221169.html>; Novynamnia, ‘Гуманітарна катастрофа Приірпіння: заблоковані в підвалах жителі потерпають без електрики, тепла, газу і зв’язку’ (‘Humanitarian Catastrophe near Irpin: Residents Trapped in Basements Suffer Without Electricity, Heat, Gas and Communication’) (8 March 2021) <https://novynamnia.com/2022/03/08/gumanitarna-katastrofa-pryirpinnya-zablokovani-v-pidvalah-zhyteli-poterpayut-bez-elektryky-tepla-gazu-i-zvyazku/>; UkrInform, ‘У Херсоні гуманітарна катастрофа - депутат’ (‘Deputy: Humanitarian Catastrophe in Kherson’) (1 March 2022) <https://www.ukrinform.ua/rubric-regions/3417331-u-hersoni-gumanitarna-katastrofa-deputat.html>.

²⁸ Global News, ‘Russia is Targeting Ukraine’s Food Supply and Infrastructure, Minister Warns’ (11 March 2022) <https://globalnews.ca/news/8677943/ukraine-russia-food-supply/>; Main Intelligence Directorate of the Ministry of Defence of Ukraine, ‘Окупанти прицільно б’ють по сільськогосподарській техніці та підривають продовольчу безпеку в Україні і світі’ (‘Occupiers Target Agricultural Machinery and Endanger Food Security in Ukraine and in the World’) (14 March 2022) <https://www.facebook.com/DefenceIntelligenceofUkraine/posts/270576275253800>.

²⁹ Euractiv, ‘Russia Deliberately Targets Ukraine’s Food Supply to Create Hunger, says Commission’ (28 March 2022) <https://www.euractiv.com/section/agriculture-food/news/russia-deliberately-targets-ukraines-food-supply-to-create-hunger-says-commission/>.

While many civilians were able to evacuate from many of the encircled cities despite repeated shelling of evacuation routes by Russia, the situation in Mariupol remains dire. Mariupol has been under siege since the first days of the full-scale war.³⁰ Humanitarian aid convoys have been blocked³¹ from accessing the city and/or looted on their way in.³² While civilians are blocked from leaving, local residents are deprived of water (drinking snow for sustenance), food, electricity, and heat.³³ Evacuation is particularly dangerous as reports have emerged of incidents in which Russian troops killed civilians who were holding white flags.³⁴ Mariupol city council alleges up to 20,000 civilian deaths as of 15 March 2022.³⁵ To date, the siege of Mariupol continues, with 100,000 civilians still trapped without access to basic necessities, such as food, water, and medical supplies.³⁶ Numerous attempts by the International Committee of the Red Cross (ICRC) to facilitate the civilian evacuation from Mariupol have failed as its convoys have been blocked from entering the enclave³⁷ and the ICRC reported that evacuation routes were mined.³⁸

Ascertaining whether the above-mentioned conduct meets the requisite intent to starve the civilian population is not an easy endeavour. Whilst direct evidence of anyone's state of mind is not easy to come by, there is compelling circumstantial evidence pointing to the reasonable inference that the requisite intent to starve, that makes this conduct of hostility criminal, is present in Ukraine. GRC are monitoring and documenting the situation to assess further, but right now, starvation in Ukraine does not look like a mere by-product of war. The Ukrainian Prosecutors General's Office and CSOs have been documenting war crimes in Ukraine since 2014, supported by Global Rights Compliance. Each day, the evidence base of starvation and other war crimes grows, along with critical evidential opportunities that must be preserved.

Options for Action

As aforementioned, there has yet to be a stand-alone prosecution of starvation on the international level. There is today an implicit hierarchy for the victims of mass atrocity, in which those who perished of starvation, thirst, exposure, and exhaustion are not ranked on par with those murdered by violent means. Our first obligation is to recognise starvation crimes as well as their victims and survivors, and the inter-generational harm and shame that this crime causes. The crime of starvation is unique in its ability to manifest into a range of acutely psychologically and physically painful and degrading acts and consequences, which are often separated in time from the acts of a perpetrator, instead slowly building cumulatively. The array of undignified and shameful acts range from: poverty and the inability to feed ones

³⁰ Washington Post, 'Video from Besieged Mariupol Shows Physical and Emotional Devastation: "I Don't Know Where to Run"' (12 March 2022) <https://www.washingtonpost.com/world/2022/03/12/mariupol-attack-video-satellite/>.

³¹ France24, 'As it Happened: Russia Forces Encircle Kyiv and Continue Mariupol Siege' (12 March 2022) <https://www.france24.com/en/europe/20220311-live-russia-expands-its-offensive-to-western-ukraine>.

³² Pravda, 'Russian troops loot and escort humanitarian convoy headed to Mariupol' (11 March 2022) <https://www.pravda.com.ua/eng/news/2022/03/12/7330830/>; Ukrinform, 'Invaders plunder Mariupol-bound humanitarian convoy' (12 March 2022) <https://www.ukrinform.net/rubric-ato/3427961-invaders-plunder-mariupolbound-humanitarian-convoy.html>.

³³ OpenDemocracy, 'Trapped in Mariupol: What it's like Inside Ukraine's Besieged City' (11 March 2022) <https://www.opendemocracy.net/en/odr/trapped-in-mariupol-what-its-like-inside-ukraines-besieged-city/>.

³⁴ NBC News, "'They were trying to escape': Ukrainian man says he saw Russian forces shooting civilians' (24 April 2022) <https://www.nbcnews.com/news/world/russia-ukraine-war-attack-civilian-convoy-havronschchyna-war-crime-rcna25628>; Independent.ie, "'Russians killed my nine-year-old sister while we waved white flags', says Ukrainian civilian' (20 March 2022) <https://www.independent.ie/videos/russians-killed-my-nine-year-old-sister-while-we-waved-white-flags-says-ukrainian-civilian-41467490.html>.

³⁵ Al Jazeera, 'Ukraine war latest updates: "20,000 civilians killed in Mariupol"' (11 April 2022) <https://www.aljazeera.com/news/2022/4/11/three-killed-in-russian-attacks-ukraine-donetsk-liveblog>.

³⁶ Security Council Report, 'What's in Blue: Ukraine Briefing' (4 April 2022) <https://www.securitycouncilreport.org/whatsinblue/2022/04/ukraine-briefing-6.php>.

³⁷ Security Council Report, 'What's in Blue: Ukraine Briefing' (4 April 2022) <https://www.securitycouncilreport.org/whatsinblue/2022/04/ukraine-briefing-6.php>.

³⁸ Вукву, 'Евакуаційний шлях з Маріуполя замінували — Директор комітету Червоного хреста' ('Director of the Red Cross Committee: The Evacuation Route from Mariupol was Mined') (8 March 2022) <https://bykvu.com/ua/bukvy/evakuatsiynyi-shliakh-z-mariupolia-zaminuvaly-dyrekto-komitetu-chervonoho-khresta/>; BBC, 'Evacuation route out of Mariupol was mined, Red Cross says' (7 March 2022) https://www.bbc.com/news/live/world-europe-60635927?ns_mchannel=social&ns_source=twitter&ns_campaign=bbc_live&ns_linkname=6225c463980bea49f4b7b73c%26Evacuation%20route%20out%20of%20Mariupol%20was%20mined%2C%20Red%20Cross%20says%262022-03-07T08%3A47%3A05.732Z&ns_fee=0&pinned_post_locator=urn:asset:db771701-6dc4-4ec6-80c5-bf4be97ab054&pinned_post_asset_id=6225c463980bea49f4b7b73c&pinned_post_type=share.

family or pay for transportation to feeding centres, maternal deficiencies, to negative coping mechanisms like child marriages or looting. The utter anguish of choosing which child to feed and which to let starve cannot be underestimated. This “societal torture”³⁹ was a point raised by Alex de Waal acting as an expert witness before the International Criminal Court, where for the first time in April 2022 we heard expert testimony on the crime of starvation in an ICL case.⁴⁰

Compounding this neglect are the myths surrounding starvation and famine that tend to be attributed to meteorological conditions such as droughts, or overpopulation, a lack of resources, or a myriad of forms of economic deprivation and impoverishment. Rather than sophisticated air strikes repeatedly targeting food and water sources or besieging a city, and other purposeful man-made action, the image of cracked earth and pot-bellied African children and international aid concerts appears to reinforce this mythology, diverting attention from the criminality and need for clearer prohibition and vigorous prosecution.

There is a clear analogy with the development of how sexual violence in conflict has been viewed and adjudicated upon. What was previously viewed as a natural consequence of war, a ‘boys will be boys’ attitude is now, following a substantial ICL jurisprudence, universally viewed as an abhorrent criminal act attracting lengthy prison sentences. There was a fatalism to SGBV in conflict, as there is with starvation: with SGBV, violence was passed off as male unruliness; with starvation the causes have been so enmeshed with the aforementioned myths, it has in turn intoned a degree of inevitability and inertia.

We saw how the myths surrounding SGBV began to be rebutted, once the understanding of the violation gravitated around the issue of consent, and not around the conduct (implicit or explicit) of the victim (e.g., her physical resistance, choice of mini skirt, promiscuity or her state of intoxication) or indeed her status as a spoil of war. The same needs to occur with starvation, the myths that circle, of climate, overpopulation, lack of food, or that starvation is purely an African problem, with humanitarian aid the only solution, need to be re-assessed and roundly dismissed.

Like, SGBV, only when an understanding of the violation gravitates around the issue of its man-made causes, can we start to expect change and accountability for past and ongoing harms.

The ultimate aim of our work is to render starvation morally toxic and there is much that can be done both individually and collectively to achieve this goal. I would like to raise three options for action available now.⁴¹

1. Call it out

There is an urgent need to increase the literacy around the notion of starvation violations across a range of sectors from police, immigration departments, journalists, courts and tribunals, investigators, and within

³⁹ Tom Dannenbaum, *Siege Starvation: A War Crime of Societal Torture* (1 November 2021). *Chicago Journal of International Law*, Vol. 22, 2022, <https://ssrn.com/abstract=3953921>.

⁴⁰ *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")* - ICC-02/05-01/20, Expert Witness Statement Alex de Waal, p. 10, https://www.icc-cpi.int/sites/default/files/Transcripts/CR2022_02836.PDF.

⁴¹ GRC, *Ethiopia: A Test Case for UN Security Council Action Under Resolution 2417*, 4 March 2021, <https://starvationaccountability.org/news-and-events/ethiopia-a-test-case-for-un-security-council-action-under-resolution-2417/>; GRC, *Guidance Note: Strengthening UN Security Council action under Resolution 2417 to break the cycle of conflict-induced hunger*, 9 March 2021, <https://starvationaccountability-org.stackstaging.com/wp-content/uploads/2021/03/GRC-Guidance-Note-for-UNSC-Meeting-11-March-2021.pdf>; GRC, *GRC welcomes the UN Secretary-General’s decision to appoint a High-Level Task Force on Preventing Famine; more action needed by the UN Security Council in response to conflict-induced hunger*, 23 March 2021, <https://starvationaccountability.org/news-and-events/grc-welcomes-the-un-secretary-generals-decision-to-appoint-a-high-level-task-force-on-preventing-famine-more-action-needed-by-the-un-security-council-in-response-to-conflict-induced-hunger/>; GRC, *GRC and Mwatana call on the UNSC to enhance accountability for mass starvation in Yemen*, 10 March 2021, <https://starvationaccountability.org/news-and-events/grc-and-mwatana-call-on-the-uns-council-to-enhance-accountability-for-mass-starvation-in-yemen/>.

humanitarian agencies. It is critical we are able to identify this violation and call it out loudly when we see or suspect it.

2. Investigations

Significantly, the landmark resolution UNSC 2417 shifted the debate on conflict and hunger where it needed to go, into the arena of peace and security, where the UNSC now has a mandate to act.

The resolution calls specifically for investigations. GRC has trained investigators, and a wide range of other practitioners, and continues to encourage those with an investigative mandate to ensure that starvation is considered in any investigative planning.

Investigations are, of course, essential in Ukraine in order for international experts to work shoulder-to-shoulder with Ukrainian investigators to secure crime evidence. Efforts to support such investigations must be expedited to ensure evidential opportunities are not lost. The longer the war continues without international war crimes specialists in the field, the more evidential opportunities that may be lost.

3. Accountability

To reiterate, as a crime, starvation has been almost entirely neglected in International Criminal Law. Until the 2019 Rome Statute amendment, there was a significant barrier to prosecuting starvation as a war crime across almost all the conflicts in which it appeared to be occurring. The Rome Statute starvation amendment, if widely ratified, could act as a much-needed catalyst for accountability initiatives and the recognition that this crime demands. Given the prevalence of starvation in current conflicts, this needs to become part and parcel of international crimes and investigations.

An international criminal prosecution for the crime of starvation, whilst long overdue, is not the panacea. We must look at the full suite of tools (legal or advocacy-based) available, including domestic prosecutions, universal jurisdiction claims, claims before relevant UN treaty bodies, International Human Rights Law litigation, investigative bodies, and transitional justice tools. There are a variety of alternative accountability options that can and should be harnessed now. Commissions of inquiry, fact-finding missions, and UNSC Panels of Experts play a vital role in the investigation and accountability for starvation crimes.

GRC is undertaking a number of steps in order to ensure that the issue of starvation is the focus of the work of several accountability mechanisms and other international bodies, including by documenting starvation-related conduct in several country contexts, disseminating it to accountability bodies and assisting CSOs engagement with such bodies.

Conclusion

It's time for our tacit tolerance of weaponised starvation to end. The evidence is in our faces. The law is in our hands. What is lacking is public clamour and political leadership. Starvation crimes should be put in their rightful place: at the head of the list of acts of inhumanity so reprehensible that they are prohibited without question.⁴²

⁴² See also GRC, 'Russia Could be Guilty of Starvation Crimes in Ukraine. We Must Act' (30 March 2022) <https://starvationaccountability.org/news-and-events/russia-could-be-guilty-of-starvation-crimes-in-ukraine-we-must-act>.