

Starvation in the Reports and Decisions of Commissions, Inquiries and Fact-Finding Missions, Courts and Tribunals

Commission Findings			
Country/Court	Commission/Mission	Starvation Findings	Analysis and Recommendations
Burundi	Commission of Inquiry on Burundi (September 2016 - October 2019) * Conduct an investigation into human rights violations and abuses in Burundi since April 2015, including on their extent and whether they may constitute international crimes and identify perpetrators.	Denial of food in the context of detention in the 2017 Report : The Commission found that the victims described conditions of detention that may constitute cruel, inhuman or degrading treatment, such as <u>denial of adequate food (para. 47)</u> .	The Commission states that the Burundian State is neither willing nor able genuinely to investigate or prosecute those violations and it therefore falls to the International Criminal Court to investigate them (para. 80).
		Lack of food in the context of detention in the 2018 Report : Victims described conditions of detention that may constitute <u>inhumane or degrading treatment, including lack of food, water and medical care (para. 44)</u> . The population's access to goods, especially essential items imported from abroad, has been hindered by the rise in exchange rates and inflation since 2015. In the space of two years, the number of people "in need", mainly in terms of health care, food, water, hygiene and sanitation, increased from 1 million to 3.6 million, representing more than 34% of the population. (para.58) Nevertheless, against this data, the Government has not redirected its domestic resources to give priority to social spending, the demand for which has risen steadily in a country whose population	The Commission states that corruption and misappropriation of public funds among authorities have depleted resources that should be devoted to safeguards the rights of the people, especially with respect to food (para. 60). Therefore, the Commission suggest that the State budget must be developed with the right to food, water, and health care in mind (para. 86). The Commission recommends that the government of Burundi undertakes the following action in order to deal with the issues concerning starvation. "Control price increases, in particular by reviewing duty and tax increases that are undermining the population's right to an adequate standard of living and by abolishing contributions that disproportionately affect the poorest sectors" (para. 85 f)

		<p>of 10.5 million is likely to double by 2030, and has given priority to defence and security. (para. 59)</p> <p>The findings suggest that the government has been reducing the domestic resources provided to the Ministry of Agriculture and Livestock by 27.4%. Corruption and misappropriation of public funds among high-level authorities are further depleting the resources that the State should be devoting to efforts to safeguard the rights of the population, especially with respect to food and health. Hundreds of people living with AIDS are going without treatment, owing in particular to the dire shortage of certain items in several of the country's hospitals. (para. 60)</p>	
		<p>The 2019 report stresses that according to the figures agreed by the Office for the Coordination of Humanitarian Affairs and the Government of Burundi, 1.77 million persons are in need of humanitarian assistance and 1.7 million are suffering from food insecurity. (para. 17)</p> <p><u>“Overcrowding, lack of food and insufficient access to drinking water, sanitation and health care have persisted in prisons and in the police and National Intelligence Service cells. These conditions continue to constitute cruel, inhuman or degrading treatment.”</u> (para. 41)</p> <p>Many Burundians returning within the framework of repatriation programs have been subjected to retaliatory measures for having fled the country and were deprived of food kits and money upon return by local authorities. (para. 57)</p>	<p>The Commission recommended that for the medium and long term that the Government of Burundi meet its international obligations to respect, protect and fulfil economic and social rights by developing and implementing State budgets in such a way as to maximize the use of available resources to ensure that the human rights of the sectors impoverished by the political crisis are respected, in particular the rights to food, water and health care. (para. 107 (k)(i)).</p> <p>The Commission also recommended that the Government of Burundi ensures that all humanitarian aid reaches the population. (para. 93 (f)).</p>

[International Commission of Inquiry on the Central African Republic](#)
(5 December 2013 to December 2014)

*The Commission was appointed to investigate international human rights and humanitarian laws violations in the Central African Republic since 1 January 2013.

Findings from the [2014 Final Report](#) :

The Commission interviewed detainees from the 'Guantanamo' illegal detention facility in Bossembélé and detainees who described conditions of near starvation (paras. 122, 248, 265, 499).

Muslims who could not escape were forced to stay in enclaves under the protection of international forces. Surrounded by the anti-balaka, they were deliberately prevented from accessing food, water and medical care, thus reducing their living conditions to a deplorable state (paras. 49, 327).

Sieges must still allow for vital foodstuffs and other essential supplies to be delivered to the civilian population. Parties to a conflict are obliged to allow and facilitate the unimpeded passage of humanitarian relief for civilians in need (para. 233).

As a result of the conflict between the anti-balaka and the Séléka, there was limited access to food, water and health services for populations living in enclaves (paras. 518, 523).

Humanitarian organizations bringing food to Muslims were threatened and attacked (paras. 591, 592).

The Commission recommended plans be put in place urgently for a fully-fledged hybrid court to take over from the Urgent Temporary Measures (UTM) measures that are, by definition, required to be only temporary (para. 76).

In April 2014 the National Transitional Council adopted [Organic Law No. 15-003](#) on the creation, organisation and functioning of the Special Criminal Court, 2015. It will be composed of national and international judges and has a duration of 5 years.

The Commission considers launching an attack against buildings, material, medical units and transport, and personnel, using the distinctive emblems of the Geneva Conventions in conformity with international law, to fall, under the Rome Statute and that within the context of a non-international conflict may constitute a war crime. In the same vein, attacking personnel, installations, material, units or vehicles involved in humanitarian assistance also constitute a war crime as long as they are afforded the protection of international humanitarian law as civilians or civilian objects. (para. 600).

The Commission remarked that Article 11 of the ICESCR recognises the right of each individual to an adequate standard of living for himself and his family including adequate food, clothing, and housing. Additionally, article 12 of the ICESCR notifies the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Article 7 of the African Union Convention for the Protection and Assistance of Internally Displaced persons in Africa (Kampala Convention) states that armed groups are prohibited from denying IDPs the right to live in satisfactory conditions of dignity, security, sanitation, food water, health. Art 16 of the African Charter on Human and Peoples' Rights guarantees the right to enjoy the best attainable state of physical and mental health.

<p>Democratic People's Republic of Korea</p>	<p>Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (March 2013 – March 2014)</p> <p>*Tasked to investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea, with a view to ensuring full accountability.</p>	<p>The 2014 Report findings: Citizens are not allowed to leave their province temporarily or to travel within the country without official authorization. This policy is driven by the desire to maintain disparate living conditions, to limit the flow of information and to maximize State control, at the expense of social and familial ties. (para. 40)</p> <p>The Commission found that during the period of famine, the state used ideological indoctrination to support the regime at the cost of “<u>seriously aggravating hunger and starvation</u>” (para. 49). “The concealment of information prevented the population from finding alternatives to the collapsing public distribution system” as well as delayed international assistance that could have saved many lives (para. 49).</p> <p>“Even during the worst period of mass starvation, the State impeded the delivery of food aid” and “denied humanitarian access to some of the most affected</p>	<p>Many suspects die at interrogation detention centres as a result of torture, deliberate starvation or illnesses developed or aggravated by the terrible living conditions. (para. 716)</p> <p>The Commission of Inquiry identified the institutions involved in the crimes and <u>urged a referral of the situation to the ICC or the establishment of an Ad Hoc tribunal</u> by the United Nations (para. 87).</p> <p>The Commission recorded the names of individuals who committed, ordered solicited, or aided and abetted crimes against humanity, including the names of individuals who headed particular in situations implicated in crimes against humanity (Report of the detailed findings, para. 1196).</p> <p>“The Commission considered three other options (a hybrid court; a special international prosecutor’s office established by the General Assembly or the Security Council; or a truth and reconciliation mechanism), but found none of them suitable under the prevailing circumstances in the</p>
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regions and groups, including homeless children” (para. 50).

“Large amounts of State resources, including parallel funds directly controlled by the Supreme Leader, have been spent on luxury goods and the advancement of his personality cult instead of providing food to the starving general population.” (para. 51)

“The State has also used deliberate starvation as a means of control and punishment in detention facilities. This has resulted in the deaths of many political and ordinary prisoners” (para. 52).

“The commission found evidence of systematic, widespread and grave violations of the right to food in the Democratic People’s Republic of Korea” (para. 53).

“Deaths from starvation continue to be reported. The commission is concerned that structural issues, including laws and policies that violate the right to adequate food and freedom from hunger, remain in place, which could lead to the recurrence of mass starvation”(para. 55)

“Starvation and other inhumane conditions of detention are deliberately imposed on suspects to increase the pressure on them to confess and to incriminate other persons”, as well as as a method to gradually eliminate the name of population in the political prison camps (paras. 58, 60).

Prisoners in the ordinary prison system are systematically subjected to deliberate starvation and illegal forced labour (para. 62)

The commission found that “crimes against humanity have been committed against starving populations, particularly during the 1990s. These crimes arose from

Democratic People’s Republic of Korea” ([Report of the detailed findings](#), para. 1202).

The Commission rendered that the UN must ensure that those most responsible for the crimes against humanity committed in the Democratic People’s Republic of Korea are held accountable. Options to achieve this end include a Security Council referral of the situation to the International Criminal Court or the establishment of an ad hoc tribunal by the United Nations. Urgent accountability measures should be combined with a reinforced human rights dialogue, the promotion of incremental change through more people-to-people contact and an inter-Korean agenda for reconciliation.” (para. 1216)

The Commission of Inquiry recommends that the Democratic People’s Republic of Korea: (1) Undertake profound political and institutional reforms, (2) Acknowledge the existence of the human rights violations, provide international humanitarian organizations and human rights monitors immediate access to the camps and their surviving victims. (3) Ensure the right to food, seek international humanitarian assistance without delay. Provide international humanitarian organizations with free and unimpeded access to all populations in need, including for the purposes of effective monitoring. Hold accountable state officials who illegally divert humanitarian aid for improper purposes. (para. 1220 a,b,l)

decisions and policies violating the right to food, which were applied for the purposes of sustaining the present political system, in full awareness that such decisions would exacerbate starvation and related deaths of much of the population” (para. 78)

“The State’s monopolization of access to food has been used as an important means to enforce political loyalty. The distribution of food has prioritized those who are useful to the survival of the current political system at the expense of those deemed to be expendable” (para. 82). “Instead of fully embracing reforms to realize the right to food, however, the Democratic People’s Republic of Korea maintains a system of inefficient economic production and discriminatory resource allocation that inevitably produces more unnecessary starvation among its citizens” (para. 82).

For more detailed information see the [Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People’s Republic of Korea \(2014\)](#).

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	<p>UNSC Panel of Experts on DPRK (October 2006 – ongoing)</p> <p>* The Panel of Experts is mandated to assist the 1718 Sanctions Committee, amongst others to gather, examine and analyze information from States, relevant United Nations bodies and other interested parties regarding the implementation of the measures, and gather, examine and analyze information in particular, on incidents of non-compliance.</p>	<p>The 2020 report found that:</p> <p>“The humanitarian situation in the Democratic People’s Republic of Korea is grim and not improving. According to the Global Humanitarian Overview 2020 of the Office for the Coordination of Humanitarian Affairs, approximately 10.4 million people in the country – over 40 per cent of the population – need humanitarian assistance. Chronic food insecurity and the lack of access to life-saving medical essentials has had a profound impact on the most vulnerable populations in the Democratic People’s Republic of Korea, in particular women and children.” (para. 208)</p> <p>“There can be little doubt that United Nations sanctions have had unintended effects on the humanitarian situation and aid operations, although access to data and evidence is limited and there is no reliable methodology that disambiguates United Nations sanctions from other factors, including unilateral sanctions regimes and domestic socioeconomic factors within the Democratic People’s Republic of Korea.” (para. 209)</p>	<p>The Panel recommended that:</p> <p>“the Security Council continue to address issues and processes that affect the mitigation of the unintended adverse impacts of sanctions on the civilian population of the Democratic People’s Republic of Korea and on humanitarian aid operations.” (para. 213)</p> <p>“the Committee should continue to discuss simplifying the exemption application and no-objection procedures for United Nations humanitarian organizations in the Democratic People’s Republic of Korea” (para. 214)</p> <p>The Panel of Experts further recommended that the Committee simplify the procedure to apply for exemptions to the extent possible and provide greater flexibility “regarding the technical specifications of planned shipments, the parties involved and the frequency of requests and submissions.” (para. 215)</p>
<p>The Democratic Republic of Congo</p>	<p>International Team of Experts on the Kasai region of the Democratic Republic of the Congo (June 2017 – ongoing)</p> <p>* The team of experts is mandated to collect information and determine the facts concerning alleged human rights violations and abuses in the Kasai regions since 2016.</p>	<p>Findings from the 2018 Detailed Report (in French):</p> <p>The report states that as a result of violence people lost access to basic food and medical care (para. 399). Moreover, some villages were cut off from supplies and staple food prices became unaffordable for the part of the population (para. 399). It also mentions cases where starvation was used against individuals in captivity (paras. 255, 293). For a shorter version see the Report of the Team of international experts on the situation in the Kasai regions (in French) (2018).</p>	<p>The conclusions of this investigation were shared with the authorities of the Democratic Republic of the Congo (DRC) in order to establish the truth and to ensure that the perpetrators of deplorable crimes are all held accountable (para. 426).</p>

	<p>UNSC Group of Experts on the Democratic Republic of the Congo (March 2004 – ongoing)</p> <p>* The Group of Experts is mandated, amongst others to gather, examine and analyse information regarding perpetrators of serious violations of international humanitarian law and human rights violations and abuses.</p>	<p>The 2019 midterm report found that multiple attacks targeted predominantly the Hema population of Djugu Territory, Ituri Province, by way of killing, maiming, forced displacement, rape, abduction, destruction and looting (para. 76)</p> <p>The attacks involved systematic and widespread looting, and the destruction and burning of houses, health centres, schools and churches, leading to massive displacements of all communities. According to OCHA, more than 400,000 people were displaced in Ituri province or into Uganda (para. 79-80)</p>	<p>The Group recommended that the Government</p> <p>“Take all necessary measures to protect the civilian population of Djugu Territory, in compliance with international human rights and international humanitarian law standards, regardless of community membership” (para. 102(c))</p>
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<p>Eritrea</p>	<p>Commission of Inquiry on Human Rights in Eritrea (June 2014 – June 2016)</p> <p>*The Commission of Inquiry was mandated to look at a broad range of alleged violations of human rights in Eritrea since it became an independent State (24 May 1993).</p>	<p>Findings from the 2015 report:</p> <p>The conditions of detention were found to be inadequate (para. 49). Detainees received <u>minimal food rations of poor nutritional quality that led to hunger and starvation</u> (para. 49). Moreover, detainees received <u>minimal drinking water of poor quality</u>, despite high temperatures in many detention places (para. 49). Lastly, detainees lacked access to or were deliberately denied medical care and medicines (para. 49).</p> <p>“Conditions and treatment during military training and service are harsh. They include lack of adequate food, water, hygienic facilities, accommodation and medical services that may result in death, severe disabilities or psychological and physiological long-term effects. Conscripts are routinely deprived of their rights to freedom of expression, movement and religion. They are systematically subjected to intentional punishment and ill-treatment aimed at inflicting severe pain. In many cases, this constitutes torture. (para. 58)</p> <p>With regard to the national service, each year thousands of boys and girls are put in effective forced labour situation. The Commission of Inquiry found that “The working and living conditions of conscripts who are subject to forced labour are conducive or amount to additional human rights violations, such as to their right to work in just and favourable conditions, their right to adequate housing and their right to the highest attainable standard of health and access to health care, in particular when they are required to perform dangerous work.”(para. 63)</p> <p>For more information, see the Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea.</p>	<p>The Commission recommends the government of Eritrea to establish <u>an independent and impartial mechanism</u> to investigate and bring perpetrators to justice (para. 85).</p> <p>The Commission recommends the government of Eritrea to improve conditions of detention in line with international standard (para. 88). Furthermore, it recommends the government to adopt a military code that forbids and punishes ill-treatment of conscripts, as well as sets the standard for living conditions, <u>including provision of food</u> (para. 92).</p>
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		<p>Detailed findings of the commission of inquiry on human rights in Eritrea (2016)</p> <p>The Commission reports that according to witnesses, abject conditions of detention in a centre for minors have resulted in malnutrition and diarrhoea among child detainees (para. 135). The witness reported that children in detention were given very little food, and many have died from malnourishment and lack of health assistance (paras. 135, 275).</p> <p>Moreover, the Commission documented appalling conditions associated with manual forced labour for the benefit of the government, where workers did not receive sufficient food and medical assistance (para. 121). There were also reports of inhumane conditions in military/national service, with many complaining on lack of food and inadequate health sanitary and health facilities (paras. 91, 214-216).</p>	<p>The Commission recommends the African Union <u>to establish an accountability mechanism to investigate, prosecute and try individuals</u> that are believed to have committed crimes against humanity (para. 362).</p>
<p>Former Yugoslavia</p>	<p><u>The Commission Of Experts on Former Yugoslavia</u></p> <p>*Established Pursuant to Security Council Resolution 780 (1992)</p>	<p>Final report of the commission of experts (Fenrick Report) of 27 May 1994:</p> <p>“The tendency of both sides to control food, water and electricity for publicity purposes, the intermingling of military forces and the civilian population and the fact that no one appears to have died during the siege from starvation, dehydration or freezing, combine to make</p>	<p>The Commission concluded that the control of UNHCR and NGO-provided supplies is also used as a weapon by both sides. This tactic must be delicately executed because of the food aid’s high media profile.” (page 37 Appendix)</p>

		<p>difficult the establishment of a solid case that starvation is being used as a method of warfare. The conduct of this matter has been deplorable, but its criminality is debatable” (para. 204).</p>	
<p>Gaza</p>	<p>The United Nations Fact-Finding Mission on the Gaza Conflict (April 2009 – September 2009)</p> <p>* Mandated to “investigate all violations of international human rights law and international humanitarian law by the occupying Power, Israel, against the Palestinian people throughout the Occupied Palestinian Territory, particularly in the occupied Gaza Strip.”</p>	<p>Human Rights in Palestine and Other Occupied Arab Territories (2009) report findings:</p> <p>The Mission found several accounts of <u>(deliberate) acts of destruction targeting food production and processing sites</u> by the Israeli armed forces (paras. 50, 1929). The Mission concluded that such actions constitutes a <u>violation of the right to adequate food</u> and means of subsistence (paras. 50, 51, 1929).</p> <p>Gazans detained during the Israeli military operations were detained in <u>degrading conditions, deprived of food, water</u> and access to sanitary facilities (paras. 57, 1475).</p> <p>The Mission found that Israeli military operations <u>violated the duty to respect</u> the right of civilians to an <u>adequate standard of living, including access to food and water</u> (paras. 73, 1164).</p> <p>The blockade established by Israel imposed restrictions on food import and production during the months preceding military operations <u>significantly affecting the availability of food</u> in the Gaza Strip (para. 1234).</p> <p>The civilian population is increasingly dependent on external humanitarian assistance, whose arrival depends on permission from the Israeli authorities. While it is not suggested that starvation is imminent, the health and welfare of the population at large have been profoundly affected by the blockade and the military operations. The only reason why starvation is</p>	<p>The Mission noted that Israel is unwilling to open criminal investigations that comply with international standards to establish judicial accountability over Israeli military actions in the Occupied Palestinian Territory (paras. 127, 1857).</p> <p>It further stated that whilst it is unclear whether the International Criminal Court will exercise jurisdiction over the alleged crimes, it supports the reliance on universal jurisdiction to investigate violations of Geneva Convention of 1949 and promote accountability (para. 1857).</p> <p>The Mission considers that serious violations of international humanitarian law found in this report fall within the subject-matter jurisdiction of the International Criminal Court (para. 1966).</p>

		<p>not imminent however is precisely the provision of humanitarian assistance. Without such assistance Gaza’s civilian population would not be able to feed itself (para. 935)</p> <p>“The movement of goods has been restricted to imports of basic humanitarian supplies through the Kerem Shalom crossing point as well as to a limited quantity of fuel. The quantities of goods allowed into the Gaza Strip have not only been insufficient to meet local demands, they also exclude several items essential for the manufacturing of goods and the processing of food products, as well as many other goods that are needed. This is compounded by the unpredictable way in which crossings are managed. <u>Neither the list of items allowed into the Gaza Strip nor the criteria for their selection are made known to the public</u>” (para. 316).¹</p>	
	<p><u>The international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance</u> (2 June 2010 - September 2010)</p>	<p>In its 2010 Report, the Fact-finding mission found that the blockade in Gaza was illegal since it made Gaza face a shortage of food or the means to buy it, that the ordinary meaning of “starvation” under the law of armed conflict is simply to cause hunger (paras. 51-61).</p> <p><u>San Remo:</u> Among others, Senior Israeli officials have stated that the legal basis for the blockade was the San Remo Manual (para. 35).</p>	<p>The mission recommends Israel prosecute the offenders and provide reparations to the victims.</p>

¹¹ The report presented by [the Public Commission to Examine the Maritime Incident of 31 May 2010 \(The Turkel Commission\)](#), established by the government of Israel to examine various aspects of the actions taken by the State of Israel to prevent the ships from reaching the Gaza Strip coast on May 31, 2010, presents a ‘Supply Assessment’ economic model expressed in a formula that is supposed to help calculate the ‘supply level’ of various products in the Gaza Strip ([Turkel Commission Report](#), p. 78). The model is based on “figures of the goods transported via the land crossings and information about local crops, and it is calculated each week for food products, animal feeds, and fuel” ([Turkel Commission Report](#), p. 78). See the full model on page 78 of the [Turkel Commission report](#).

The Mission stated that, while a belligerent who has established a lawful blockade is entitled to enforce that blockade on the high seas according to the San Remo Manual, para.10(b), the blockade must satisfy a number of legal requirements, including: notification, effective and impartial enforcement and proportionality.² In particular a blockade is illegal if:

(a) it has the sole purpose of starving the civilian population or denying it other objects essential for its survival;

or

(b) the damage to the civilian population is, or may be expected to be, excessive in relation to the concrete and direct military advantage anticipated from the blockade.³

The Mission found that the policy of blockade or closure regime, including the naval blockade imposed by Israel on Gaza was inflicting disproportionate civilian damage. The Mission considers that the naval blockade was implemented in support of the overall closure regime (paras. 48-61).

It might be suggested that a belligerent in an armed conflict has a right to visit, inspect and control the destinations of neutral vessels on the high seas, irrespective of any declared blockade. Whilst there is some controversy on this issue, the San Remo Manual and a number of military manuals take the view that the right may only be exercised upon reasonable suspicion that a vessel is engaged in activities which support the enemy.⁴ The Mission takes the view that a

² DOSWALD-BECK, L. (1995). San Remo manual on international law applicable to armed conflicts at sea, para. 93-95, 100.

³ Ibid., para. 102.

⁴ Ibid., paras. 67, 118; UNITED KINGDOM, MINISTRY OF DEFENCE. (2004). The Joint Service Manual of the Law of Armed Conflict, para 13.91.

	<p>The United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict (23 July 2014 to June 2015)</p> <p>*Mandated “to investigate all violations of international humanitarian law and international human rights law in the occupied Palestinian territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before, during or after”.</p>	<p>right of interference with third States’ freedom of navigation should not lightly be presumed (para. 55).</p> <p>The Mission considers that the enforcement of an illegal blockade does not only constitute a violation of the laws of war, but also a violation of the laws of neutrality giving rise to State responsibility (para. 61).</p> <p>The Commission found in its 2015 Report that, “alongside the toll on civilian lives, there was enormous destruction of civilian infrastructure in Gaza: 18,000 housing units were destroyed in whole or in part; much of the <u>electricity network and of the water and sanitation infrastructure were incapacitated</u>” (para. 23).</p>	<p>Provides recommendations to both Israeli and Palestinian authorities to put in place adequate investigations and accountability mechanisms in accordance with international law and states that the current accountability in place are not adequate (paras. 72-81).</p>
India	<p>Famine Inquiry Commission New Delhi, Government of India (1946)</p> <p>*The Commission was appointed to investigate and report to the Central Government upon the causes of the famine and make recommendations to prevent their recurrence.</p>	<p>The 1946 Report on Bengal came to three conclusions about the causes of the Bengal famine:</p> <ol style="list-style-type: none"> 1) A serious shortage in the total supply of rice available for consumption in Bengal in 1943; 2) The large sections of the population who normally shop at the market were not able to afford the prices at which the products were distributed; 3) The supply of rice and wheat was not available during the closing months of 1942 and the early months of 1943 (Chapter X, Section B, para. 5). 	<p>“We have criticized the Government of Bengal for their failure to control the famine. It is the responsibility of the Government to lead the people and take effective steps to prevent avoidable catastrophe. But the public in Bengal, or at least certain sections of it, have also their share of blame” (Chapter XI, para. 5).</p> <p>The Special Rapporteur on the right to food has analyzed commercial seed systems and advised states to regulate</p>

		<p>As a result, the shortage of supplies and the rise of the prices on rice led to famine on a wide scale (Chapter X, Section B, para. 5). “Famine, in the form in which it occurred, could have been prevented by resolute action at the right time to ensure the equitable distribution of available supplies” (Chapter XI, para. 2).</p> <p>“During the months August to October, the number of deaths was 100 per cent, or more in excess of the average. <u>Numerous deaths from starvation occurred and epidemic diseases were widely prevalent.</u> Famine victims left their villages in thousands and wandered into towns and cities, particularly into Calcutta. <u>Belief measures failed to supply and distribute food and prevent starvation, and the medical and public health situation was out of hand</u>” (Chapter VIII, Section D, para. 20).</p> <p>“What happened was that producers sold their rice as they thought fit at the best price they could obtain, or held it in the hope of still higher prices. Traders bought, held and sold with the object of obtaining maximum profits, and consumers who could afford it bought as much as they could and not as much as they needed. <u>The results were on the one hand unprecedented profiteering and the enrichment of those on the right side of the fence; on the other, the rise of prices to fantastic heights and the death of perhaps one and a half million people</u>” (Chapter X, Section E, para. 21).</p>	<p>them with policies that contribute to the full realization of the right.⁵</p>
Lebanon	<p>Commission of Inquiry on Lebanon (11 August 2006 to November 2006)</p>	<p>In its 2006 Report the Commission found that cargo ships were unnecessarily held off the Lebanese coasts, thus delaying the distribution of urgent humanitarian supplies to the civilian population (para. 272).</p>	<p>Makes recommendations to the Human Rights Council on the humanitarian assistance and reconstruction and encourages the Council to ensure justice for the victims and accountability for international humanitarian law and human rights violations.</p>

⁵DE SCHUTTER, O. (2009). Report of the Special Rapporteur on the Right to Food (A/64/170), recommendations in paras. 56-57.

	<p>* Mandated to investigate the systematic targeting and killings of civilians by Israel in Lebanon; (b) to examine the types of weapons used by Israel and their conformity with international law; and (c) to assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment.</p>	<p>The Commission documented various cases of direct attacks on medical and relief personnel (para. 15)</p> <p>The Commission considers that it will take years for Lebanon, to be able to rebuild all the damaged buildings and other facilities. In the meantime, solutions must be found for the civilian population to see their human rights, in particular their right to adequate housing and to the highest attainable standard of health, respected. (para. 20)</p> <p>See also paras. 138, 171-187, 272).</p>	
Libya	<p><u>International Commission of Inquiry on Libya</u> (25 February 2011 to March 2012)</p> <p>* Mandated to investigate serious violations of human rights and international humanitarian law committed by the Gaddafi regime, as well as other forces involved in the conflict</p>	<p>In its 2012 Report, the Commission of inquiry discussed the issue of starvation in the context of a siege by stating that “Attacking, destroying, removing or otherwise rendering useless objects which are indispensable to the survival of the civilian population is prohibited. Sieges must still allow for vital foodstuffs and other essential supplies to be delivered to the civilian population” (para. 542).</p> <p>The Commission found that the Gaddafi forces had set up checkpoints encircling towns, cutting off supplies of fuel and food (paras. 21, 88, 90, 128, 160, 542, 563); Detainees told the Commission that water and food were distributed rarely (paras. 171, 187, 190, 280, 346, 347, 377, 444); there was looting: sacks of wheat as well as food and sheep (para. 456).</p>	<p>The Committee made a series of general recommendations to improve the human rights situation and requested the UN to provide technical assistance to Libya to enforce the judiciary and to release the funds of the Libyan government for them to implement the recommendations and to establish a mechanism to monitor the implementation of the recommendations. (paras. 132-135)</p>
	<p><u>OHCHR Investigation on Libya (HC Fact Finding Mission with UNSMIL)</u> (March 2015 – March 2016)</p>	<p>The OHCHR investigation denounced in its February 2016 Report that there was a denial of food to detainees (paras. 31, 42, 54, 82). In addition to the effects of the conflict, the Government’s decision to reduce or cut food subsidies in November 2015 had an adverse impact on access to food.</p>	<p>The High Commissioner supports resourcing the ICC further to enable it to expand its investigations in Libya. It urged the cycle of impunity in Libya to be ended and to establish transitional justice mechanisms such as truth and reparation commissions (paras. 66-77).</p>

	<p>*Mission to investigate violations and abuses of international human rights law that have been committed in Libya since the beginning of 2014, and to establish the facts</p>	<p><u>Major water networks have been disrupted</u>, which has affected access to safe drinking water, sanitation and hygiene. <u>OHCHR investigated one case in Al-Sasiriyah where the water supply was apparently deliberately cut by an armed group (para. 42).</u></p>	
<p>Mali</p>	<p>UNSC Panel of Experts on Mali (September 2018 – ongoing)</p> <p>* Mandated to assist the Mali Sanctions Committee in the designation of individuals who may be engaging in activities, such as obstruction of humanitarian aid, amongst others and gather and analyse information regarding the implementation and compliance with measures of the Committee</p>	<p>The 2020 report noted that parties to the conflict, armed groups, the militia, the terrorists, the jihadists or the national armed forces, continued to perpetrate attacks on humanitarian workers and aid, severely impeding humanitarian access. Aid workers are often targeted, abducted, while aid is looted. (para. 129-133)</p> <p>“As at 18 June 2020, non-governmental organizations (NGOs) operating in Mali have been subject to 106 incidents” (para. 131)</p> <p>“Attacks on livelihoods are used as a weapon of war and consist of the stealing and destruction of property and the burning down of dwellings, harvests and stored livelihoods by armed groups, terrorists, jihadists and militia. Taking advantage of the intercommunal conflicts, attacks by jihadists and terrorists on livelihoods aim at creating food shortages and weakening the food security system, with the goal of subduing the population and securing resources to finance criminal activities. Furthermore, attacks lead to the abandonment of the fields and displacements that weigh on host communities and the displaced themselves.” (para. 135)</p> <p>Details of cases of obstruction of humanitarian aid can be found in Annex 15.</p>	<p>The Panel highlighted that</p> <p>“Under international humanitarian law, parties to conflicts must make a distinction between combatants and civilians and livelihoods necessary to the survival of the populations. Thus, pillaging livelihoods is a breach of international humanitarian law and international human rights law.” (para. 134)</p>

<p>Myanmar</p>	<p>Independent international fact-finding mission on Myanmar (May 2017 – ongoing)</p> <p>*Mandated to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State since January 2011.</p>	<p>Findings from the 2018 Report:</p> <p>The discriminatory travel authorisation system for Rohingya has had serious consequences for the right to food and health. The degree of malnutrition witnessed in northern Rakhine State has been alarming. (para. 23).</p> <p>Rohingya and Kaman in camps and displacement sites remained detained without freedom of movement and access to sufficient food, healthcare and livelihoods (para. 29).</p> <p>Constrained freedom of movement of Rohingya has limited their access to livelihoods and markets, further exacerbating malnutrition (para. 49). Civilians in Kachin and Shan live in displacement camps or camp-like situations since 2011, often in overcrowded conditions with inadequate shelter. There, <u>access to food and health care is limited, while the rate of chronic malnutrition is well above the national average</u>” The rate of chronic malnutrition is well above the national average. Outbreaks of preventable diseases are reported. (para. 69).</p> <p>The mission also found that the military has consistently failed to respect international law, with the continuous implementation of the “Four Cuts” counterinsurgency policy aimed at <u>cutting off non-</u></p>	<p>The mission has stated that the Government of Myanmar is <u>unable and unwilling to investigate and prosecute crimes</u> (para. 98). The Government’s commission of inquiry will not and cannot prove an avenue for accountability and therefore, the impetus for accountability must come from the international community (para. 98).</p>
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State armed groups from access to food and finances, among other things (para. 76).

For more detailed information see the [Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar \(2018\)](#)

Findings from the 2019 Report:

The imposition of stringent movement restrictions has had severe adverse effects on access to basic services for Rohingya. The tightening of movement restrictions prevents Rohingya from accessing livelihood activities, such as fishing, collecting firewood and/or bamboo from the forest and cultivating land, and accessing life-saving health services, education and food. Due to obstacles to accessing livelihood opportunities as a result of the movement restrictions, supply of food has decreased with the resulting spike in food prices. Movement restrictions have increased the dependency of Rohingya on humanitarian assistance. (para. 152).

Since the “clearance operations” began on 25 August 2017, the Government has severely restricted access to food for Rohingya in Rakhine State, triggering heightened risk of food insecurity with related consequences on health. This lack of access is another major factor Rohingya cite for fleeing from northern Rakhine State to Bangladesh. Food insecurity is being caused by Government laws and policies, including stringent restrictions on movement and the Tatmadaw’s use of Rohingya land that prevents them from farming and related activities, both discussed above. This has resulted in significantly higher food prices. The Government’s restrictions on access for humanitarian actors are exacerbating the situation (para. 156).

Food insecurity is particularly threatening to Rohingya.

Based on these findings, the Mission concluded that:

The International Covenant on Economic, Social and Cultural Rights (ICESCR) became binding on Myanmar in January 2018. It places obligations on States to recognize and ensure the right to an adequate standard of living, including adequate food,³⁵⁷ and the highest attainable standard of health.³⁵⁸ The Convention on the Rights of the Child (CRC), to which Myanmar is also party, provides similar obligations towards children specifically.³⁵⁹ The Government’s movement restrictions, deprivation of food and denial of humanitarian relief are all having severe effects on the right to food and health of Rohingya (para. 171).

The Mission concludes that there are reasonable grounds to believe that the Government’s movement restrictions, deprivation of food, restrictions on land use and denials of humanitarian relief all constitute retrogressive measures that violate its obligations under ICESCR and CRC. The Government’s retrogressive measures deny Rohingya access to food and put their health and lives at risk. It is inconceivable that the Government is unaware of these consequences. The Mission also concludes on reasonable grounds that Government imposed movement, humanitarian and food access restrictions disproportionately affected the Rohingya population due to the Rohingya’s particularly vulnerable status after the 2016 and 2017 “clearance operations” and the Government’s overall discriminatory treatment of them. The Mission also found that the movement restrictions imposed disproportionately severe penalties (para. 172).

The Rohingya community has traditionally provided food for themselves and their families, including farming, especially rice, fishing, livestock rearing and collecting firewood and bamboo from the forest. The 2017 “clearance operations” had such a devastating impact on the food security in Rakhine State that the United Nations human rights mechanisms had to intervene on several occasions.

The Mission found that the security forces and members of ethnic Rakhine communities routinely visit Rohingya villages to confiscate food, including crops and even humanitarian aid. (para. 161).

The Tatmadaw and ethnic Rakhine villagers also denied Rohingya people food by deliberately killing or confiscating livestock, including cattle, goats and chickens, without permission or payment, depriving Rohingya both of food and of income-generating opportunities. The military would hunt chickens with slingshots and confiscate cattle for failure to pay bribes. This was in addition to the requirement for Rohingya to register their cattle, sheep, goats, chicken and other animals with the authorities. The requirement to report and register new livestock was accompanied by extortion, confiscation of cattle or financial penalties (para. 163).

Food insecurity is made worse in northern Rakhine State by military and members of the ethnic Rakhine communities raiding or confiscating Rohingya-owned and cultivated lands. The military also reportedly leases out farmlands, formerly owned and cultivated by Rohingya, to local members of the ethnic Rakhine communities. In some cases, according to interviewees, the military confiscated land for personal economic benefit and made Rohingya cultivate and harvest the crops without compensation (para. 164).

In some areas, the military ordered villagers not to

To understand the full consequences that Rohingya suffer from the Government’s movement restrictions, deprivation of food and denial of humanitarian relief in Rakhine State, the Mission finds it appropriate to assess this issue in combination with its other findings and conclusions. As explained in the report’s Conclusions and legal findings: the impossibility of return, the Mission concludes on reasonable grounds that these restrictions, deprivations and denials contribute to the Government’s continued persecution of the Rohingya people and result in serious or great inhumane suffering, both of which are crimes against humanity. Finally, the manner in which the Government imposes its movement restrictions, deprivation of food and denial of humanitarian relief is one of several indicators that the Mission has identified to infer that the Government continues to harbour genocidal intent and that the Rohingya remain under serious risk of genocide. Finally, the Mission concludes on reasonable grounds that the Government’s food restrictions contribute to an overall condition that makes it unsafe, inhumane, unsuitable and impossible for Rohingya to return to their homes and lands (para. 175).

cultivate their lands (para. 165).

Rohingya businesses suffered serious losses during and after the 2017 “clearance operations”. In Maungdaw, many markets were either burnt or closed. The few businesses that remain open are at risk of closure due to the loss of customers and reduced supplies. This has also contributed to a spike in food prices (para. 166).

Government-imposed access restrictions on domestic and international humanitarian organizations are interrupting life-saving assistance to Rohingya communities in need. These organizations provide support for health and nutrition, education, water and sanitation, and food security. As found in the Mission’s 2018 report, the Government suspended or severely restricted humanitarian access to Maungdaw, Buthidaung and Rathedaung Townships after the 2012 violence, further tightened them in June and July 2017, and also did so after the clearance operations in 2016 and 2017. The restrictions left the population without critical lifesaving assistance, including access to food and health services. As discussed in more detail below, humanitarian access to northern Rakhine has been further curtailed following the escalation in violence in 2019 between the AA and the Tatmadaw, leaving the population in need of support and assistance (para. 167).

Order of the International Court of Justice (23 January 2020):

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar) – [Request for the Indication of Provisional Measures](#)

On 11 November 2019, The Gambia filed an Application instituting proceeding against Myanmar concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide. The Application contained a Request for the indication of provisional measures (para. 1, 4):

“At the end of its Request, The Gambia asked the Court to indicate the following provisional measures:

(a) Myanmar shall immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent all acts that amount to or contribute to the crime of genocide, including taking all measures within its power to prevent the following acts from being committed against [any] member of the Rohingya group: extrajudicial killings or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part;

(b) Myanmar shall, in particular, ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any act of genocide, of conspiracy to commit genocide, or direct and public incitement to commit genocide, or of complicity in genocide, against the Rohingya group, including: extrajudicial killing or physical abuse; rape or other forms of sexual violence; burning of homes or villages; destruction of lands and livestock, deprivation of food and other necessities of life, or any other deliberate infliction of conditions of life calculated to bring about the physical destruction of the Rohingya group in whole or in part” (para. 5).

Unanimously, the Court indicates the following provisional measures that are to be adopted (4 out of 6 brought forward by The Gambia):

“The Republic of the Union of Myanmar shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the members of the Rohingya group in its territory, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular: (a) killing members of the group; (b) causing serious bodily or mental harm to the members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and (d) imposing measures intended to prevent births within the group;

The Republic of the Union of Myanmar shall, in relation to the members of the Rohingya group in its territory, ensure that its military, as well as any irregular armed units which may be directed or supported by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in point (1) above, or of conspiracy to commit genocide, of direct and public incitement to commit genocide, of attempt to commit genocide, or of complicity in genocide;

The Republic of the Union of Myanmar shall take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of acts within the scope of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide;

The Republic of the Union of Myanmar shall submit a report to the Court on all measures taken to give effect to this Order within four months, as from the date of this Order, and thereafter every six months, until a final decision on the case is rendered by the Court” (p. 25, para. 86).

“As to whether the acts complained of by the Applicant are capable of falling within the provisions of the Genocide Convention, the Court recalls that The Gambia contends that Myanmar’s military and security forces and persons or entities acting on its instructions or under its direction and control have been responsible, inter alia, for killings, rape and other forms of sexual violence, torture, beatings, cruel treatment, and for the destruction or denial of access to food, shelter and other essentials of life, all with the intent to destroy the Rohingya group, in whole or in part. In The Gambia’s view, these acts are all attributable to Myanmar, which it considers to be responsible for committing genocide. The Gambia contends that Myanmar has also violated other obligations under the Genocide Convention, “including by attempting to commit genocide; conspiring to commit genocide; inciting genocide; complicity in genocide; and failing to prevent and punish genocide”. The Court notes that Myanmar, for its part, denied that it has committed any of the violations of the Genocide Convention alleged by The Gambia, arguing in particular the absence of any genocidal intent” (para. 29).

“The Court notes that the reports of the Fact-Finding Mission ((United Nations, Report of the Independent International Fact-Finding Mission on Myanmar, doc. A/HRC/39/64) have indicated that, since October 2016, the Rohingya in Myanmar have been subjected to acts which are capable of affecting their right of existence as a protected group under the Genocide Convention, such as mass killings, widespread rape and other forms of sexual violence, as well as beatings, the destruction of villages and homes, denial of access to food, shelter and other essentials of life” (para. 71).

<p>Republic of Sudan</p>	<p>International Commission of Inquiry on Darfur to the UN Secretary-General (UN Darfur Commission) (2004 – 2005, focused in particular on incidents that occurred between February 2003 and mid-January 2005)</p> <p>* To investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable.</p>	<p>The January 2005 Report found that: Water pumps and wells had been destroyed, implements for food processing wrecked, trees and crops were burnt and cut down (para. 235). <u>Rural areas are “scenes of destruction”</u> (para. 235); Arab militia attacked Shoba West and Shoba Karika on 28 April 2002, looting all livestock, food and medicine (para. 252); Janjaweed are reported to have destroyed utensils, equipment for processing food, burning and looting food and cattle, water containers and other household items essential for the survival of the inhabitants (paras. 305, 311);</p> <p>Torture and cruel and degrading treatment was accompanied with other serious crimes committed by Government forces and the Janjaweed against the civilian population during the Kailek incident in South Darfur. The suffering of the people was compounded by the scarcity of food and water, and the unhygienic conditions in which they were confined in the small, controlled spaces, within which they were forced to relieve themselves, because of restrictions on their movements. Several hundred children are reported to have died during the internment from an outbreak of disease. (para. 367)</p>	<p>The Commission concluded that, while the perpetrators did not have a genocidal policy, their conduct may amount to murder, persecution and extermination as a crime against humanity and war crimes (paras. 522, 638, 639, 642). The Commission did not specifically highlight the war crime of starvation, but <u>concluded that deliberate and wanton attacks against objects that are indispensable to the survival of civilian population even amounted to ‘a very serious war crime’</u> and also to a crime against humanity (paras. 315, 319, 320, see also para. 166). (p. 84; See also pp. 48, 49, 160-161).</p> <p>The Commission strongly recommended that that <u>the Security Council immediately refer the situation of Darfur to the International Criminal Court (ICC)</u>, as the Sudanese justice system is unable and unwilling to address the situation in Darfur (paras. 568, 569). The Commission recommended the Government to strengthen the judicial system <u>and establish a truth and reconciliation commission</u>; the exercise of universal jurisdiction by other States, the re- establishment by the Commission on Human Rights of the mandate of the Special Rapporteur on human rights in Sudan, and the use of public and periodic reports on the human rights situation in Darfur by the High Commissioner for Human Rights (paras. 650-653).</p>
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		<p>National Security and Intelligence Service and by the Military Intelligence denied food to detainees (para. 369).</p> <p>Most of the crimes were allocated to Government-backed Janjaweed, and some instances were reportedly done by SLM/A, JEM or simply as rebels (para. 380).</p>	<p>In June 2005, the ICC opened investigations on allegations of genocide, war crimes and crimes against humanity committed in Darfur, Sudan since 1 July 2002.⁶ Two arrest warrants have been issued against Sudan’s President Omar Al Bashir who is charged by the ICC for the crime of genocide.⁷ Al Bashir is currently under arrest after having stepped down in response to nationwide protests.⁸</p>
<p>UNSC Panel of Expert on Sudan (March 2005 – ongoing)</p> <p>* The Panel of Experts is mandated to, amongst others, assess progress towards reducing violations by all parties of the arms embargo, to violations of international humanitarian law, including those that involve attacks on the civilian population</p>		<p>The 2020 report highlighted localized tensions, violence targeting internally displaced persons and returnees and sexual and gender-based violence, and direct targeting of civilians. (para. 109)</p> <p>In relation to detention by the SLA/AW, the Panel reported the prisoners were denied access to medical treatment, basic hygiene and food (on occasion not providing food for several days). (para. 102)</p> <p>It further detailed cases of burning of farmland, destruction of schools (para. 117 – 118).</p> <p>Throughout the report there were numerous accounts of looting by both the Sudanese Armed Forces soldiers (para. 47) and the Sudan Liberation Army, including the looting of livestock and farm produce (para. 126, 130).</p> <p>“The situation of affected communities was made more dire as a result of limited humanitarian assistance, outbreaks of diseases and a lack of food, water and medical supplies.” (para. 126)</p> <p>“For communities of internally displaced persons faced with shrinking food rations and humanitarian support, the situation worsens their plight, as sources of income and livelihood are significantly affected.” (para. 128)</p>	<p>The Panel noted that transitional justice measures are not in place, while demands for justice and accountability are growing and the fear that those who bear the greatest responsibility for violations, including security forces, are unlikely to be held accountable. (para. 138)</p> <p>The Panel further stated that:</p> <p>“The situation in Darfur needs a major paradigm shift to reduce violence in the region, enhance security and end human rights violations.” (para. 139)</p>

		<p>“Communities have been affected by the continuing blockade of humanitarian actors by the Government of the Sudan since 2009. Ten years down the line, there have been no tangible changes in the lifting of restrictions, and few humanitarian actors are permitted to operate” (para. 132)</p>	
<p>Somalia</p>	<p>UNSC Panel of Experts on Somalia (November 2018 – ongoing)</p> <p>* In assisting the Somalia Sanctions Committee, the PoE is mandated to monitor, assess, investigate, make recommendations regarding violations of sanction measures</p>	<p>The 2020 report details various accounts of obstruction of humanitarian assistance by Al-Shabaab, specifically across southern and central Somalia. During the reporting period the Panel recorded 11 incidents in which humanitarian non-governmental organizations (NGOs) operating in Somalia were targeted, including four abductions and one targeted assassination perpetrated by Al-Shabaab, resulting in the death of eight and the abduction of 20 humanitarian workers. (para. 124)</p> <p>Al-Shabaab abducts humanitarian staff to exert its control over outreach programmes and extort money from humanitarian organizations. (para. 125)</p> <p>Al-Shabaab continues to threaten and directly target humanitarian workers when their community support activities are not acceptable to the group. (para. 127)</p> <p>The Panel also noted how Al-Shabaab tried to impose its authority on communities and targeted civilians who resisted its attempts with threats, abductions, killings, destruction of property and confiscation of land, causing displacement of populations. (para. 136)</p> <p>Previously documented by the Somalia and Eritrea Monitoring Group in 2017, the 2020 PoE report examines the economic blockade imposed in Dinsor, especially in the second quarter of 2020. The blockade consisted of attacks targeting the transport of commercial goods, and incidents where carts</p>	<p>The Panel recommended that the Committee:</p> <p>Encourage the Federal Government of Somalia to integrate protection of civilians principles and pay specific attention to child rights issues in the framework, amongst others, of the national strategy on preventing and countering violent extremism (para. 170(a))</p> <p>Establish a technical working group to gather experience and good practices with regard to the establishment of a national mechanism to monitor and document civilian casualties (para. 170(b))</p> <p>Call upon the international community to support national efforts towards the development of a protection of civilians strategy for Somalia (para. 171(b))</p>

		<p>transporting food and other products were destroyed. Al-Shabaab circulated threatening messages (siege), encouraging the population to move to surrounding towns under the group's control. These messages further banned the population of surrounding villages from bringing items such as milk, wood, building material, food and animals into the town. (Annex 7.1.)</p>	
<p>South Sudan</p>	<p>United Nations Commission on Human Rights in South Sudan (March 2016 – March 2020)</p> <p>* The Commission did not have the mandate/resources to carry out investigations or fact-finding mission. The Commission based its methodology on OHCHR and international standards for human rights monitoring. The Commission's mandate is to determine and report the facts and circumstances of, collect and preserve evidence of, and clarify responsibility for alleged</p>	<p>The 2017 Report denounced the continued <u>restrictions on access of aid agencies</u> and stated that the “scorched earth” policy may amount to <u>starvation, which is prohibited by international law as a method of warfare (para. 82)</u>. Civilians are not provided with adequate food or access to health care, and their right to life is often threatened or breached by all parties to the conflict throughout the country (para. 86).</p> <p>In December 2017, the Commission denounced that “crops are destroyed <u>leaving villages starving</u>” and that aid workers were being restricted, attacked and felt insecure.⁹</p>	<p>The <u>facts and evidence collected</u> by the Commission <u>will be put at the disposal of</u> also to all transitional justice mechanisms to be established, including those envisaged under the 2015 Agreement on the Resolution of Conflict in South Sudan (ARCSS). Chapter V of the Agreement provides for the establishment of: 1) <u>Hybrid court for South Sudan</u>, to investigate and conduct criminal prosecutions; 2) <u>a commission for truth, reconciliation and healing</u>; 3) <u>a compensation and reparation authority</u>.</p> <p>The Commission recommended in its 2017 Report, <u>the immediate establishment of an international, independent investigation</u>, under the auspices of the UN, into the most serious crimes committed in South Sudan since December 2013 by, inter alia, collecting and preserving evidence of human rights violations and abuses and violations of international humanitarian law, and by <u>supporting criminal proceedings</u> before the hybrid court and national, regional and international tribunals with jurisdiction over such crimes (report summary; para. 96).</p>

⁶ INTERNATIONAL CRIMINAL COURT (ICC). (2019). Situation in Darfur, Sudan, ICC-02/05. Retrieved from: <https://www.icc-cpi.int/darfur>

⁷ Ibid.

⁸ BBC News, 17 April 2019 <https://www.bbc.com/news/world-africa-47961424>

⁹ UNITED NATIONS. (2017). UN human rights experts call for perpetrators of widespread human rights violations to be brought to justice in South Sudan. Retrieved from: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22562&LangID=E>

<p>gross violations and abuses of human rights and related crimes, including sexual and gender-based violence and ethnic violence, with a view to ending impunity and providing accountability.</p> <p>The Commission looked at events that took place since December 2013.</p>	<p>The 2018 report states that aid has been deliberately blocked from reaching civilians on the basis of ethnicity, further exacerbating the food crisis (para. 132).</p> <p>“Hunger and lack of access to health care and schools are used to break down the “other side” in the conflict”; the right to adequate food, water and health care was repeatedly violated (para. 132).</p>	<p>The Commission reports a delay in the signing of the memorandum of understanding and the failure to domesticate the draft statute, two legal instruments necessary to establish the Hybrid court for South Sudan (para. 116). It further suggests that the Government of South Sudan may have no real intention of establishing the court (para. 117).</p> <p>Moreover, the Government of South Sudan has failed to establish a Commission for Truth, Reconciliation and Healing or conduct national consultations so as to inform legislation to establish such a commission (para. 118).</p> <p>Lastly, the Commission has been informed that the work on the Compensation and Reparation Authority has not begun yet due to the lack of funds (para. 123).</p>
	<p>The 2019 report mentions that detention facilities have substandard medical care and inadequate food that leads to malnutrition, and in some cases, starvation (para. 30).</p> <p>South Sudan remains to be the most dangerous place in the world for humanitarian workers, with the situation continuing to deteriorate by the deliberate obstruction of the humanitarian work (para. 22). “Humanitarian organisations reported their properties being attacked and looted”, resulting in displaced civilians unable to get desperately needed assistance (para. 71).</p>	<p>The Commission stated that the process of establishing the Hybrid Court for South Sudan has stalled due to the lack of political will and uncertainty about the future of government (para. 115).</p> <p>The report also found that most South Sudanese remain unaware of the Commission for Truth, Reconciliation and Healing and are uncertain about its credibility (para. 116). Finally, the designing of a reparations programme including, setting up the Compensation and Reparation Authority has not begun (para. 117).</p>
	<p>The 2020 report has identified starvation as a key issue in South Sudan, including starvation as a policy of warfare. It found that both government forces and armed opposition groups have implemented policies and strategies that have led the population to starve, causing hunger, social breakdown, internal displacement, heightened mortality leading the majority of the country (54%) to be classified as ‘in</p>	<p>The Commission concluded that incontrovertible and sufficient evidence exists to hold to account individuals both in the Government and in the armed opposition under international and national laws who have pursued policies leading to starvation of the population, including under article 8 (2)(e)(xix) of the Rome Statute of the International Criminal Court, which now includes the intentional use of starvation of civilians as a method of warfare as a war crime in non-</p>

	<p>crisis' or worse 'acute food insecurity'.</p> <p>Access to humanitarian aid has also been hampered by both government and opposition factions: such policies include the deliberate targeting of objects indispensable to survive and “were envisaged and implemented as part of a wider strategy to deprive enemy communities of resources and thus force their capitulation, allow soldiers and militias to reward themselves, forcibly displace communities from ancestral lands that could then be expropriated” (para. 70)</p> <p>Denying access to food was also used as an instrument to target and punish non-aligning communities; other deliberate policies included the destruction and looting of primary means of livelihoods (fresh crops, livestock, and ready harvest), (Annex II, para. 42)</p> <p>Specifically, the Commission found that the denial of humanitarian access and displacement brought about by unlawful tactics have exacerbated famine in different parts of the country, depriving hundreds of thousands of civilians of vital needs. (para. 70)</p> <p>Humanitarian workers and food aid delegations have also been targeted and attacked, resulting in the death of at least 8 individuals. (Annex II, para. 31)</p>	<p>international armed conflict. (see annex II, paras. 37–47). (para 71)</p> <p>The Commission also observed that the right to food may be construed by Articles 9(3) and 11 of the Constitution which guarantee both the domestic application of international human rights instruments to which SS is a state party and the right to life and human dignity. The interdependence, indivisibility and interrelated nature of all human rights form another basis of the recognition of the right to food. (Annex II, para 46)</p> <p>Recommendations called upon South Sudan realign spending priorities and commit resources towards fulfilling citizens' need (freedom from hunger and other economic, social and cultural rights) to comply with all obligations under international human rights law and international humanitarian law.</p> <p>Ensure that all communities have rapid, unhindered and sustained access to humanitarian aid, prioritizing the acute needs of civilians in the Greater Upper Nile and Bahr el Ghazal regions, and take measures to hold accountable State and non-State actors who obstructed or unlawfully diverted humanitarian assistance. (para 82(s))</p> <p><u>Expedite the establishment of chapter V mechanisms without further delay to achieve the holistic implementation of transitional justice.</u> (para 82(u))</p>
	<p>The 2020 Conference Room Paper on Starvation as a method of warfare made the following findings</p> <p>“reasonable grounds to believe that Government forces systematically attacked, pillaged, destroyed, and rendered useless objects indispensable to the survival of the population in Western Bahr el Ghazal. Denying access to food was used as an instrument to target and punish communities perceived to be non-aligned and supportive of the SPLA-IO (RM) forces</p>	<p>The Commission affirmed that while the Rome Statute now includes the war crime of starvation in non-international armed conflicts, “experts have concluded that this could constitute a codification of existing customary international law.” (para. 35)</p> <p>“The term “starvation” should be understood to encompass deprivation not just of food and water but also of other goods essential for survival in a particular context. The crime of starvation does not require that victims die from starvation, only that they should intentionally be deprived of objects indispensable to their survival. This may include depriving</p>

(i.e., the Fertit and Luo communities), while rewarding Government soldiers by allowing them to retain provisions stolen and looted from these communities.” (para. 88)

“The Commission has reasonable grounds to believe that Government forces deliberately and systematically attacked, destroyed, and rendered useless objects indispensable to the survival of the civilian population in Jonglei State. The denial of access to food and essential services was used as an instrument to target and punish non-aligning communities and in particular those deemed to support the SPLA-IO (RM) forces.” (para. 123)

“[B]oth Government and SLPA-IO (RM) forces have deliberately and intentionally interfered with the capability of international humanitarian aid organisations to deliver vital foodstuffs to communities in need, including through the arbitrary detention of humanitarian aid workers.” (para. 128)

“Throughout 2018, at least 15 humanitarian aid workers were also killed while delivering assistance, including by non-State armed groups, adding to the totality of deaths of around 97 aid workers since the onset of conflict in December 2013. Moreover, more than 575 humanitarian staff were relocated due to insecurity.¹ Bureaucratic and operational interference continues, including in areas under the control of non-State armed groups, hampering the delivery of critical health and nutrition services.” (para. 129)

individuals of their ability to obtain food, degrading public health, and disrupting access to clean water, or deliberate denial of food and arbitrarily refusing to allow relief operations where the survival of the civilian population is threatened.” (para. 36)

In relation to the Hybrid Court for South Sudan, the Commission stated that

“Considering the fact that the Hybrid Court is an integral part of the Peace Agreement between warring parties, and its implementation a prerequisite for sustainable peace in South Sudan, the Hybrid Court presents the most realistic and credible chance to address on-going human rights violations in South Sudan, by the issuing of indictments and the conducting of eventual prosecutions for related crimes such as the war crime of starvation and crimes against humanity related to persecution” (para. 43)

Acts described in para. 88, “were contrary to Article 14 of Additional Protocol II ... Article 18 ... and could constitute crimes under Article 8(2)(e)(ix) of the Rome Statute...” The Commission further observed that while South Sudan is not a party to the Rome Statute, war crimes could be prosecuted through a UNSC referral or through UJ claims in States which already include a similar war crime of starvation in their domestic criminal law. (para. 89)

The Commission held that these acts were also contrary to Article 25 UDHR, and under the right to food implicitly protected under the African Charter on Human and Peoples’ Rights through the right to life, the right to health, and the right to economic, social and cultural development. (para. 90)

While at a national level, the right to food may be construed through Articles 9(3) and 11 of the SS Constitution (domestic application of international human rights instruments and right to life and human dignity). (para. 91)

¹ *South Sudan: Annual Humanitarian Access Review (January - December 2018)*, UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (OCHA), 25 FEBRUARY 2019, available at <https://reliefweb.int/report/south-sudan/south-sudan-annual-humanitarian-access-review-january-december-2018>.

		<p>The Commission found that “sufficient evidence exists to hold members of Government forces accountable under international and national laws for the crime of starvation of civilians used as a method of warfare by depriving them of objects indispensable to their survival” (para. 93)</p> <p>The sustained attacks (reasonable ground to believe that they were widespread and systematic) left civilians with no other option than to flee and could hence amount to the crime against humanity of deportation or forcible transfer under Article 3(d) of the Draft Statute of the Hybrid Court for South Sudan, while the targeted nature (along ethnic lines) of the attacks could constitute the CAH of persecution. Under 3(h) of the above statute. (para 93)</p> <p>Based on acts described in para. 123, “the Commission has reasonable grounds to believe that sufficient evidence exists to hold to account members of Government forces under international and national laws who have pursued policies and actions amounting to starvation as a method of warfare in Jonglei State. In addition, there are commanders who could be held accountable under international law for failing to prevent or punish the international crime of starvation of the civilian population as a method of warfare.”</p>
	<p>The 2021 report found that</p> <p>“Over the past seven years, the acute food insecurity and malnutrition witnessed throughout South Sudan have been caused primarily by flooding and starvation used as a method of warfare.” (para. 48)</p> <p>“The Commission found that government forces had used starvation as a method of warfare in Western Bahr el-Ghazal (between January 2017 and November 2018) and Jonglei (between 2017 and 2019) States. Government forces sought to marginalize and punish minority ethnic groups, including the Balandá Boor</p>	<p>The Commission noted that</p> <p>“Besides the use of starvation as a method of warfare in Western Bahr el-Ghazal, Jonglei and Central Equatoria States between 2017 and 2019 and the possible crimes against humanity, the Commission notes the increase in the displacement of people due to seasonal flooding in South Sudan.” The Commission also drew attention to the obligations of South Sudan pursuant to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) to “provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water,</p>

(Fertit) and Luo communities in Western Bahr el Ghazal State, whom government forces perceived as being hostile and sympathetic to the opposition (SPLA-IO), by depriving civilians of goods indispensable to their survival. Commanders also authorized their soldiers to pillage goods indispensable to the survival of these rural populations, including harvests (such as sorghum, cassava and okra) and livestock (chicken, cattle and goats).² The Commission also determined that the violations were part of a widespread or systematic attack directed against the civilian population in Western Bahr el-Ghazal State ... The resulting physical and food insecurity left civilians with no alternative but to flee their homes to safety elsewhere. The Commission concluded that the targeted nature of the attacks, including along ethnic lines, owing to perceived support for the opposition, can amount to the crime against humanity of persecution along political and/or ethnic grounds under article 3 (h) of the draft statute of the hybrid court for South Sudan.”³ (para. 49)

“Members of armed groups also used starvation as a method of warfare in Central Equatoria in 2018. SPLA-IO forces deliberately obstructed the activities of international humanitarian aid organizations, and prevented them from delivering vital foodstuffs to communities in need, including through the arbitrary detention of humanitarian aid workers. At least 117 humanitarian actors were detained for prolonged periods in in South Sudan in 2018.”⁴ (para. 50)

shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities”. Also, under the above Convention, members of armed groups are prohibited from hampering “the provision of protection and assistance to internally displaced persons under any circumstances and impeding humanitarian assistance and the passage of relief consignments, equipment and personnel to internally displaced persons.” (para. 59)

The Commission noted that South Sudan is further bound by the African Charter on Human and Peoples’ Rights and that the African Commission has laid down that the Charter implicitly protects the right to food through the right to life, to health, and to economic, social and cultural development.⁵ (para. 60)

“The right to food may be contained in articles 9 (3) and 11 of the Transitional Constitution of South Sudan, which guarantee both the domestic application of international human rights instruments to which South Sudan is a State party and the right to life and human dignity.” (para. 63)

The Commission recommended the Revitalised Transitional Government of National Unity to “[t]ake effective measures to prevent and respond to any acts that may amount to the crime of starvation, such as the destruction of crops or livestock in the context of localized conflict, or the displacement of populations by non-State actors ... Ensure

² The situation is exacerbated by the fact that soldiers are often not properly remunerated or able to support themselves, and are encouraged to loot as a means of sustaining themselves. See conference room paper of the Commission (A/HRC/40/CRP.1), available on the webpage of the Commission (www.ohchr.org/EN/HRBodies/HRC/CoHSouthSudan/Pages/Index.aspx).

³ See “‘There is nothing left for us’: starvation as a method of warfare in South Sudan”, conference room paper of the Commission on Human Rights in South Sudan (A/HRC/45/CRP.3), available on the webpage of the Commission at www.ohchr.org/EN/HRBodies/HRC/CoHSouthSudan/Pages/Index.aspx. See also draft statute of the hybrid court for South Sudan, arts. 3 (d), (h) and (j).

⁴ Office for the Coordination of Humanitarian Affairs, South Sudan: Annual Humanitarian Access Review (January–December 2018), 25 February 2019. Two such incidents were reported in Central Equatoria in March and April 2018, both involving SPLA-IO forces. See also A/HRC/45/CRP.3.

⁵ www.achpr.org/public/Document/file/English/achpr30_155_96_eng.pdf, paras. 64–65.

		<p>unfettered access to the United Nations, the International Committee of the Red Cross (ICRC) and humanitarian workers to allow them to carry out their work in accordance with their mandates and international law.” (para. 81 (x), (y))</p> <p>The Commission recommended that the SSPDF, factions of the SPLA-IO and non-State armed groups “[a]llow unfettered access to the United Nations, ICRC, humanitarian organizations and human rights defenders in accordance with their mandates and international law.” (para. 82 (d))</p>
	<p>The 2021 Conference Room Paper made the following findings</p> <p>“Murle militia members raided cattle and other civilian property in Padoy, and burned down at least one community warehouse where food was being stored.” (para. 104)</p> <p>“At the time of writing (January 2021), around 1.6 million individuals are entering their eighth year of internal displacement. Multiple conflict-induced displacements over decades have left large segments of the population across South Sudan suffering the consequences of severe acute malnutrition, and periodic episodes of communicable disease, including measles, malaria, diarrheal diseases, and tuberculosis or other immuno-compromising health conditions — all comorbidities which render them more susceptible to communicable diseases including COVID19.⁶ (para</p>	<p>The Commission found that “a context of heightened insecurity prevailed in Central Equatoria and neighbouring regions, with armed soldiers engaging in road ambushes against civilians and humanitarian workers, and looting their vehicles, motorbikes, medicine, and communication equipment. Soldiers who had not received their food rations and remuneration also used violence to extort food and household items from civilians. Such acts are crimes under national law, and can constitute war crimes and other serious crimes within the jurisdiction of the Hybrid Court for South Sudan.”(para. 189)</p> <p>The Commission concluded that</p> <p>There are “reasonable grounds to believe that members of the Government of South Sudan have engaged in acts amounting to gross human rights violations and serious</p>

⁶ See, e.g., Communicable diseases and severe food shortage situations, United Nations World Health Organization (WHO), 25 August 2005, available at https://www.who.int/diseasecontrol_emergencies/guidelines/Severe_food_shortages.pdf; See also <https://news.un.org/en/story/2020/05/1064012>. On 13 May 2020, the first COVID-19 cases were confirmed by UNMISS in two protection of civilian sites in Juba and Rubkhona, two of the most densely populated sites in South Sudan. As widespread testing and treatment options for COVID-19 remain limited, access to water and sanitation, including soap, are largely non-existent for many persons internally displaced. A man displaced in Mangateen camp (Juba), for example, described congestion within the camp and the attendant lack of access to adequate healthcare, water and sanitation. ERN TW101-A0005. More difficult still, as mentioned above, is the practicality of maintaining “social distancing” or self-quarantine. This is nearly impossible in overcrowded settings, with families crammed together in small shelters or tents. While hand-washing stations have been set up in some sites, given the already dire socio-economic conditions most South Sudanese experience, it is likely that civilians will continue with their usual activities, including congregating in large groups and therefore increasing their susceptibility to the virus.

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“Moreover, despite the launch of the action plan, the humanitarian situation for displaced persons has not improved over the past two years. ... Beginning in early 2019, and in addition to overcrowding, internally displaced persons have been experiencing diminishing humanitarian aid at some previously designated protection of civilian sites (eg, Bor in Jonglei State), and Government forces deliberately denied food and humanitarian aid into at least mid-2019. (see A/HRC/43/CRP.3)” (para. 136)

“Numerous victims in some of the IDP camps are facing significant hardships, including congestion, inadequate food, sanitation and portable water, sexual harassment, especially against women, and lack of access to affordable health care and education.” (para. 159)

“The Commission’s evidence suggests that the SPLA (now SSPDF) used starvation of civilians as a method of warfare, by taking actions designed to deny or withhold food or objects indispensable for survival, in order to weaken the population. In June 2018, following the capture of areas in Western Bahr el Ghazal, the SPLA 5th Division commander denied all humanitarian access. The Commission determined that the SPLA’s Division 5 objective was to deprive civilians and cause them to move away. The SPLA objective was initially achieved as numerous civilians from Mboro town fled again between August and September 2018.²⁹¹ The South Sudanese authorities have an obligation to investigate all allegations of the use of starvation as a method of warfare committed by their armed forces or

violations of international humanitarian law in the context of the armed conflict in Central Equatoria. Government forces have also failed to respect their obligation to respect the right to food and freedom from hunger generally, in accordance with articles 9(3) and 11 of the Transitional Constitution of South Sudan.” (para. 211)

“At the subnational level, localised conflicts, often with the participation of organised armed militias affiliated with the South Sudan People’s Defence Forces (SSPDF) or the Sudan People’s Liberation Army in Opposition (pro-Riek Machar) (SPLA-IO (RM)) were characterised by brutal attacks. Violations against civilians included abductions, including of children, murder, rape and other forms of sexual violence, physical and psychological torture and ill-treatment, looting, and the unnecessary destruction of civilian property, crops, and other means of livelihood.” (para. 212)



opposition forces and to prosecute those responsible.” (para. 175)

The Commission reported that between February 2020 and January 2021, further protracted armed violence took place between ethnic groups in Jonglei State, Warrap State, and Greater Pibor Administrative Area. Violations and abuses included “torture; sexual violence, forced displacement, arson, and the unnecessary destruction of civilian property including homes, boreholes, water treatment installations, crops, food storage warehouses, and properties of international and non-governmental organisations, looting, abductions, and enforced disappearances.”⁷ (para. 185)

“Vicious ethnic-based attacks and counterattacks levelled against targeted communities destroyed whole villages through the deliberate torching and looting of homes, farms, and food storage, leading to displacement, hunger, and loss of livelihoods for hundreds of thousands of civilians.” (para. 192)

[UNSC Panel of Experts on South Sudan](#)
(March 2015 – ongoing)

* Mandated to assist the South Sudan Sanctions Committee, to gather, examine and analyse information regarding measures decided in resolutions 2206 (2015), 2428 (2018) and 2521 (2020), amongst others.

The [2020 report](#) found that:

“Over 7 million people in South Sudan depend on humanitarian assistance, nearly 2.3 million South Sudanese live as refugees or asylum seekers and about 1.6 million people remain internally displaced.⁵¹ Most South Sudanese face serious food shortages and have limited or no access to basic services, including safe water, health care or education” (para. 43)

Up until January 2020, both armed groups and government forces continued to act in breach of the cessation of hostilities agreement, “perpetrating acts in contravention of international humanitarian and human rights law in areas of Central and Western Equatoria

The Panel recommended that:

“to ensure compliance with international human rights law and international humanitarian law instruments, as well as article 2.1.10 of the revitalized peace agreement, the Committee address a letter to South Sudan urging it to: (a) abstain from using warfare tactics that are in contravention of international human rights and international humanitarian law;” (para. 132(c))

⁷ A/HRC/46/53, paras. 32-46.

	<p>and Maiwut County in Upper Nile.” (para. 44)</p>	
	<p>The 2020 interim report found that the humanitarian situation has worsened with more people needing humanitarian assistance and being food insecure than in September 2020. (para. 22)</p> <p>“The Government, since its formation, has not created an enabling environment to ease the delivery of humanitarian assistance. Conflict has hampered the delivery of humanitarian aid in Jonglei, the Greater Pibor Administrative Area and Western, Central and Eastern Equatoria” (para. 23)</p> <p>“During the fighting from mid-February to early August in Jonglei and the Greater Pibor Administrative Area, civilians suffered from direct attacks and conflict related forced displacement.” The Panel also found that various militias “committed serious violations and abuses of human rights and international humanitarian law, including attacks directed against civilians and property, such as homes, markets, humanitarian objects, health facilities, churches and schools” (para. 36)</p> <p>Killings of humanitarian workers (8) and increased fighting in Jonglei and Greater PAA prompted the evacuation of 184 humanitarian actors, resulting in the cessation of essential services for civilians. As of late October 2020, compounded by heavy flooding reducing humanitarian access, “insecurity shut down major roads in Jonglei and prevented the delivery of basic services to civilians on the brink of starvation.” (para. 37)</p> <p>“Humanitarian facilities and services were targeted, destroyed and looted during the months-long conflict. Between May and July, food and nutrition items were stolen and humanitarian warehouses, health clinics and schools were looted, vandalized and burnt</p>	<p>The Panel noted that:</p> <p>“violence is the primary contributing factor in the current humanitarian crises. Jonglei and GPPA already were the two of the most severely food insecure areas of South Sudan. ... the fighting severely disrupted land preparation and obstructed humanitarian access. As a consequence, the most vulnerable population was left without access to basic services and on the brink of starvation.” (Annex II)</p> <p>The Panel of Experts recommended that the Government ensure that its security forces adhere strictly to IHL. (Annex XIX)</p> <p>It also recommended that “the Committee call on the Government and the AU to confirm whether the memorandum of understanding has been signed and to publish the Hybrid Court’s statute and a detailed plan of action to implement article 5.3 of the peace agreement.” (Annex XIX)</p>

	<p>down...On at least three occasions, targeted flight restrictions obstructed humanitarian access” (para. 38)</p> <p>As part of the disarmament campaign, SSPDR soldiers “raped girls, killed cattle, and looted food from civilians” (para. 41)</p>	
	<p>The 2021 report found that:</p> <p>“According to findings from IPC, just under half the population in South Sudan were facing high levels of acute food insecurity and more than 92,000 people living in the Greater Pibor Administrative Area and the Counties of Aweil South in Northern Bahr al-Ghazal and Tonj East, Tonj North and Tonj South in Warrap were facing famine-like conditions as of early March 2021.” (para 57)</p> <p>“Despite the high levels of need, humanitarian organizations have confronted security and bureaucratic barriers to the delivery of humanitarian aid that have posed serious personal risks to aid workers. The Office for the Coordination of Humanitarian Affairs noted in January 2021 that the number of incidents of humanitarian obstruction reported in 2020 had increased compared with 2019, which the Office assessed was mostly because of active hostilities and violence against humanitarian workers and assets.²⁸ In the period from 4 to 6 January 2021, owing to fighting in Bunj, Maban County, Upper Nile, several humanitarian organizations halted operations. Since then, national and international humanitarian organizations have reduced activity levels to protect staff.” (paras. 58)</p> <p>In addition, the Panel’s investigation into the various forms of denial of humanitarian access has shown that</p>	

the Government has established an intentionally complex bureaucratic system for the delivery of aid and has failed to guarantee the safe delivery of humanitarian aid. In particular, multiple sources raised serious concerns about the Government's deliberate policy of denying or delaying the issuance of visas for hundreds of international humanitarian staff who had been evacuated from South Sudan owing to COVID-19. The Government's intention, according to the sources, was to limit the number of international staff returning to South Sudan (see S/2017/326, S/2017/979 and S/2018/292), leading some humanitarian organizations to operate at less than half their normal staffing levels. (para 59)

"Following the fighting in Jonglei and the Greater Pibor Administrative Area from mid-February to early August 2020, the humanitarian situation for civilians deteriorated to the point of famine-like conditions as of early March 2021. As a consequence of the violence and displacement, civilians in the Greater Pibor Administrative Area were unable to cope with severe flooding in July 2020. The Panel noted in its interim report of 2020 that civilians in the area had been on the brink of starvation, which the IPC Famine Review Committee later verified." (para. 60)

"The Famine Review Committee found that "coordinated attacks of unprecedented violence" in Lekuangole and Gumuruk in June and July and severe flooding had led to the current food crises." (para 64)

"As of early March 2021, according to the Panel's sources, high numbers of the population were at risk of dying of hunger in the Greater Pibor Administrative Area, and hunger-related deaths had been recorded in Verteth, Gumuruk and Lekuangole. Confidential

	<p>documents reviewed by the Panel indicated that, for the past three months, most people in those areas have consumed just one meal per day, and women caregivers have begun to eat one meal every two to three days. Sources also told the Panel that, owing to the unavailability and unproductiveness of typical food insecurity coping strategies, people were almost completely dependent on access to wild food and food drops.” (paras. 66)</p>	
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<p>Sri Lanka</p>	<p>OHCHR Investigation on Sri Lanka (March 2015 – September 2015)</p> <p>* OHCHR’s investigation is mandated to “undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission (LLRC), that is, from 21 February 2002 until 15 November 2011, and to establish the facts.</p>	<p>The 2015 Report found that the restrictions on the provision of food, water, sanitation and life-saving medical care on civilians is leaving <u>many civilians dying of starvation</u> (paras. 981-982, 992, 1091).</p> <p>OHCHR has reasonable grounds to believe that the Government knew or had reasons to know the real humanitarian needs of the civilian populations in the concerned areas, including from its own Government agents who were organizing assistance in the conflict zone, and yet it imposed severe restrictions on the passage of relief and the freedom of movement of humanitarian personnel. <u>This apparently resulted in depriving the civilian population in the Vanni of adequate basic foodstuffs and medical supplies essential for their survival.</u> If established by a court of law, these acts and omissions point to violations of international humanitarian law, which, depending on the circumstances, <u>may amount to the use of starvation of the civilian population as a method of warfare</u> (para. 1169).</p>	<p>The OHCHR recommends the adoption of truth-seeking mechanisms, investigations, prosecutions and punishment of alleged perpetrators, reparations and measures to prevent the recurrence of the patterns of violations and abuses (para. 1181).</p>
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Syria	<p>The Independent International Commission of Inquiry on the Syrian Arab Republic (2011 – Present)</p> <p>*The Commission’s mandate is to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic, <u>to establish the facts and where possible, to identify those responsible to be held accountable.</u>¹⁰</p>	<p>In its September 2017 Report, the Commission found that <u>the “surrender or starve” tactic had been widely used by the pro-Government forces</u> throughout the conduct, and it has proven disastrous for civilians but successful for overtaking opposition-held territory (paras. 34, 95). The deprivation of supplies and the bombardments of hospitals has destroyed hundreds of lives (paras. 34, 106). Some armed groups also committed the war crimes of <u>withholding the distribution of humanitarian aid from the besieged population</u> under their control (para. 102). <u>The Commission recommended all parties to end all sieges and related strategies, including starvation and denial of access to humanitarian aid</u>, including food, water and medicine, which primarily affect civilians (para. 106).</p>	<p>In light of the findings, the Commission made recommendations to all parties in order to improve the human rights and humanitarian situation and stop the abuses (paras. 106-107).</p> <p>The Commission recommended the international community <u>to support the establishment of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes</u> under International Law Committed in the Syrian Arab Republic since March 2011, in accordance with General Assembly resolution 71/248; Calls upon the Independent Mechanism to further evidence and information on the crimes documented by the Commission in the present report; to support the efforts of the Special Envoy of the Secretary-General for Syria to pursue political talks in accordance with the road map stipulated by the Security Council in its resolution 2254 (2015) (para. 109).</p>
	<p>In their policy report on Sieges as a weapon of war: Encircle, starve, surrender, evacuate, the Commission found that:</p> <p>“Syrian civilians in besieged areas countrywide have been encircled, trapped, and prevented from leaving; indiscriminately bombed and killed; <u>starved, and routinely denied medical evacuations, the delivery of vital foodstuffs, health items, and other essential supplies</u> – all in an effort to compel the surrender of</p>	<p>The Commission urged the Syrian Arab Republic and other parties to the conflict to cease the use of sieges as a method of warfare (including denial of access to humanitarian aid, food, water and medicine) (para. 26). The Commission calls for the compliance with international humanitarian law and Security Council resolution 2147 (2018), as well as urges for the immediate lift of all sieges, among other recommendations (para. 26).</p>	

¹⁰ UN Human Rights Council. (2011). Resolution S-17/1. Available at: [www.ohchr.org/Documents/HRBodies/HRCouncil/ CoISyria/ResS17_1.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ResS17_1.pdf)

those “governing” or in control of the areas in which they live” (para. 1).

“Characterised by pervasive war crimes, sieges throughout Syria have remained the primary method of warfare employed by parties to the conflict, repeatedly laid with impunity and in clear breach of international human rights law and international humanitarian law (IHL)” (para. 1).

“Such sieges have lasted months and often years – the longest running of which was in eastern Ghouta, which lasted for over five years (2013-2018). In some instances, with increasing shortages of food, water, and medicine leading to moderate or severe acute malnutrition and deaths among vulnerable groups, including children, the elderly, and the infirm, besieged armed groups have confiscated or hid food items, distributing them preferentially to those within their ranks, their family members, and confidants over the civilian population at large” (para. 2).

“Many of the consequences of the deprivation and starvation policies of sieges may amount to war crimes, and, if conducted as part of a widespread or systematic attack against the civilian population, may amount to crimes against humanity.” (para. 7).

“In 2012, pro-Government forces began laying sieges in a coordinated and planned manner, aimed at forcing populations, collectively, to starve or surrender” (para. 9).

“Armed groups too began laying sieges to Government held areas with predominantly Shi’a Muslim populations. As early as July 2012, multiple armed groups encircled the majority Shi’a towns of Nubl and

	<p>Zahra (northern Aleppo), <u>blocking the entry of food, fuel, and medical supplies to its residents</u>” (para. 14).</p>	
	<p>The August 2018 report concerns the myriad of issues affecting displaced civilians in Syria. The witness reports have suggested that FSA (Free Syrian Army) affiliated groups held detainees in inhumane conditions with <u>minimal access to food</u> (para. 27).</p> <p>Furthermore, the findings suggest that the <u>government forces sporadically denied the entry of vital foodstuffs and medicine in Homs</u>, making it difficult for the humanitarian actors to access the area (para. 32). Initial <u>siege to Yarmouk camp in July 2013 prevented the entry of humanitarian aid</u> (paras. 41, 46).</p> <p>In April 2013, government forces laid <u>siege to Yarmouk camp</u>, compounding the suffering of civilians and <u>thereafter systematically denying humanitarian aid deliveries</u>. In instances where the siege was temporarily eased, <u>the camp was still extremely hard to reach for humanitarian actors</u>” (para. 46).</p> <p>The pro-government forces have also launched “double-tap” <u>attack against a popular market</u> in the residential area (para. 58).</p> <p>Moreover, the report notes that “within the framework of the “evacuation agreements”, the <u>responsibility to provide civilians with food, water and adequate living conditions rests with the parties undertaking the displacement</u>”, however, pro-government forces and armed groups have neglected that responsibility (para. 66).</p>	<p>The report proposes a set of recommendation aimed at addressing the issues affecting displaced civilian population.</p>

		<p>Civilians displaced in Afrin described conditions of overcrowding, while struggling to cope due to the limited access to basic services (para. 69). In particular, <u>limited access to water and electricity, and the high prices for basic commodities</u> (para. 69). The suffering was exacerbated when <u>access to the main water pumping station was severed</u>, leaving civilians without running water for weeks (para. 69). Moreover, overcrowding led to <u>severe shortages of food</u>; as aerial and ground operations moved closer to Afrin city, civilians reported being forced to hide in cellars for days without access to toilets, <u>as well as limited quantities of (unpotable) water and no food</u> (para. 69).</p> <p>Due to the lack of coordination among the parties to the agreement and armed groups manning the areas near Jarablus, there were prolonged delays or civilians displaced from Rastan, with civilians waiting for hours to cross into Jarablus <u>without basic assistance or food</u> (para. 76). “Evacuees reported that at least one woman perished during the 25-hour journey” (para. 76).</p> <p>Warring parties <u>did not provide internally displaced persons with food, water or access to basic sanitation facilities</u> after evacuating civilians from Yarmouk camp and its environs (para. 81).</p>	
		<p>The January 2019 report findings:</p> <p>“The Commission notes with concern the continued unstable situation of the internally displaced, including those subsisting in Rukban camp, who are not provided with adequate food, water or living conditions” (para. 11).</p>	<p>“The Commission reiterates the recommendations it made in previous reports, with particular emphasis on the protection of civilians in areas where hostilities are ongoing” (para. 95).</p>

In Rukban camp, “following the closure by pro-government forces of at least one unofficial supply route used to smuggle vital foodstuffs and medicine, living conditions in Rukban deteriorated significantly towards the end of September. As the cost of food correspondingly soared, civilians suffered a large-scale humanitarian disaster. At least one young woman aged 20 died of malnutrition induced by economic hardship” (para. 85).

The situation of children in Rukban camp is particularly extreme, with one displaced man underscoring the prevalence of child malnutrition leading to preventable deaths (para. 88). He described how parents “were forced to nourish their infants with a mixture of water and sugar instead of milk” (para. 88). “At least four malnourished infants unable to receive medical treatment died between October and December” (para. 88).

The makeshift camp in Hajin was established only two kilometres from the combat zone in violation of international humanitarian law (para. 90). “Indeed, humanitarian access to the camp was severely curtailed due to hostilities and the unstable security situation. As a result, the majority of encamped individuals, comprising women and children, including ISIL family members, lacked access to adequate food and potable water and received only minimal medical care. The preventable deaths of at least three children owing to these conditions were documented” (para. 90).

“All detained displaced persons had the right to an adequate standard of living, including the rights to food and water, as well as the right to health. By failing to provide adequate food, water and living conditions to

	<p>encamped persons in Kharayij, Abu Khashab and al-Bahara camps, <u>SDF continues to violate these rights</u>” (para. 92).</p> <p>“By October, up to 10,000 Syrian women, men and children remained trapped in Hajin, <u>living under near-constant bombardment without access to adequate food or medicine</u>” (para. 93).</p> <p>The Commission’s January 2020 report entitled <u>‘they have erased the dreams of my children’</u> addresses violations of the rights of children and highlights child malnutrition over the course of the Syrian War:</p> <p>“Another tactic with devastating effects on children was the frequent use of siege warfare by most parties to the conflict. Albeit each siege was unique, towns and villages were besieged, often for years, regularly accompanied by instances of near-constant shelling and aerial bombardment. These tactics caused scores of casualties, including children, and further <u>prevented the flow of food and medicine into affected areas. Instances of children dying from malnutrition, dehydration and other preventable deaths linked to the denial of humanitarian assistance have been documented</u>” (para. 26).</p> <p>“On occasions, <u>children were also deprived of food and vital medical care</u>, whipped and used to coerce confessions from their parents. The presence of male and female detainees as young as 11 was recorded in Security Branches 215, 227, 235 and 248 in Damascus. Torture and rape of minors was reported in Branches 215 and 235. The Commission has documented cases of children as young as seven dying in State custody” (para. 53).</p> <p>“Female detainees held with young children recalled</p>	<p>“As a matter of priority, the Commission urges all parties to the conflict to respect, protect and fulfil the human rights of all Syrian girls and boys” (para. 91).</p> <p>“First, as a matter of priority and in terms of immediate action, the Commission recommends that:</p> <p>(a) all parties to the conflict commit in writing to the well-established principles under international law that grant all children special protection in times of war and conflict, and to adhere to the principle that all children in armed conflict are first and foremost victims and not perpetrators. The international community should provide support to implement those commitments that have already been made by parties to the conflict;</p> <p>(b) the Government of the Syrian Arab Republic, as the primary duty bearer to protect children at all times, including during armed conflict, ensures that due protection is granted to all children;</p> <p>(c) parties to the conflict urgently integrate the best interest of the child into all considerations of their military planning, policies and practices and consider child rights in every single military operation they conduct in Syria” (para. 92).</p> <p>“In relation to children in situations of displacement, the Commission recommends that: (b) all parties allow specialized humanitarian organisations access to displaced children to ensure all needed services are provided in terms of health, protection and (re)establishment of contacts and familial links between the child and families” (para.98).</p>
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	<p>being <u>denied medical assistance and food for their babies</u> including in cases when children were visibly ill” (para. 54).</p> <p>“While in captivity, Yazidi girls endured brutal rapes and physical violence, were denied access to adequate food and medicine, and severely punished by severe beatings and gang rapes when they attempted to escape” (para. 67).</p> <p>“Often left without a guardian, <u>children suffered from malnutrition</u>, war-related injuries, and preventable diseases caused from the lack of medical care and medicine” (para. 70).</p> <p>“In camp settings, health conditions remain deplorable with food, medicine and other life-saving supplies scarce or no longer available. For example, in the “annexed” section inside al-Hol camp, <u>interviewees described being denied food</u> and prevented from accessing medical care, including for their infant children. Some of these children bore visible shrapnel injuries, <u>suffered acute malnutrition and eventually perished</u>. The impact on medical care in Syria will likely endure long after the conflict has ceased, in particular for those boys and girls who have suffered disabilities because of the war” (para. 73).</p>	
	<p>The January 2020 report (19th report) made the following findings:</p> <p>“Fierce battles further destabilized the provision of services, and deprived countless civilians from accessing medical services and education, as well as food and water.” (para. 17)</p> <p>Indiscriminate airstrikes continue to affect civilians and civilian objects: “The attack killed 20 people, including 8 women, one of whom was pregnant, and 6 children, and injured at least 40 others. The air strike caused substantial</p>	<p>The Commission recommended that the Syrian Government:</p> <p>“Allow unfettered access for independent humanitarian, protection and human rights organizations in every part of the country” (para. 100(a))</p> <p>The Commission recommended that pro-government forces:</p> <p>“Cease attacks on civilians and civilian objects, in accordance with their obligations under international humanitarian law” (para. 101(a))</p>

damage to the area, including to an adjacent square surrounded by commercial vendors. At least two residential buildings and a food storage room were destroyed, while the school and the camp medical centre were damaged.” (para. 24)

“In attacking medical facilities, pro-government forces repeatedly committed the war crime of deliberately attacking protected objects and intentionally attacking medical personnel...[violating] binding international humanitarian law to care for the sick and wounded, and committed the war crime of attacking protected objects” (para. 29)

Internally displaced persons:

“displaced women, men and children remain scattered, including hundreds of thousands living in overcrowded makeshift camps that dot the Syrian border, with limited access to food, water, health care and medicine” (para. 83) and “Others sought refuge in schools or mosques in Ariha or Saraqib, where access to food, water and health care remained severely curtailed.” (para. 84)

Children

“Children are particularly vulnerable when forced to relocate to displacement camps. As with Rukban camp (paras. 85–87), tens of thousands of children in Hawl, around 1,200 of whom are unaccompanied, remain stranded with marginal access to food, clean water, medical care and education. Girls and boys, many of whom are orphaned, were adversely affected by the continuously deteriorating conditions in the camp, with children suffering from malnutrition, infectious diseases and measles.” (para. 96)

	<p>The July 2020 report findings:</p> <p>“Consistent with a previously established pattern, air strikes by pro-Government forces reportedly struck at least 13 markets during the period. The Commission documented seven such attacks.” (para. 27)</p> <p>“Consistent with a pattern previously documented by the Commission, 26 proGovernment forces reportedly struck 25 medical facilities in Idlib and western Aleppo between November 2019 and February 2020.” (para. 36)</p> <p>“As documented in numerous instances by the Commission, the civilian population in Idlib has over the past years been subjected to indiscriminate attacks on civilian areas and schools, and deliberate attacks on protected objects, such as hospitals, killing and injuring thousands of civilians in acts amounting to war crimes.” (para. 70)</p>	<p>“the Commission has reasonable grounds to believe that pro-Government forces committed the war crimes of deliberately attacking medical personnel” (para. 71)</p> <p>“The Commission reiterates the recommendations made in previous reports, in particular its call on all parties to cease attacks on civilians and civilian objects.” (para. 109)</p> <p>“The Commission further recommends that all parties and the international community take measures to expand critical humanitarian aid to the long-suffering civilian population in the north-west of the Syrian Arab Republic, including by securing increased access to or presence in the area, in order to provide protection and humanitarian assistance” (para. 111)</p>
	<p>The September 2020 report findings:</p> <p>“Previously reported concerns regarding access to water, electricity and fuel³³ were aggravated by the rapidly deepening economic and currency crisis, and were further compounded by the global pandemic and tightening sanctions. This, in turn, risked refuelling the root causes of the conflict, which included deepening poverty and inequalities” (para. 29) “The scarcity of essential services was compounded by the lack of humanitarian access in these areas, due to governmental restrictions on registration of NGOs, as well as the harassment of former and current aid workers by the security services.” (para. 30)</p> <p>“Continuing previously established patterns, the Commission also documented attacks against medical facilities, schools and markets, which deprived scores of civilians of access to health care, education and food.” (para. 81)</p>	<p>The Commission’s recommendations included the following:</p> <p>“[I]n light of the economic crisis, food insecurity and the COVID-19 pandemic, the Commission calls upon all parties as well as the international community and individual Member States to ensure and facilitate unfettered access for independent humanitarian, protection and human rights organizations in every part of the country, including to places of confinement or detention. All obstacles to humanitarian aid should be removed, including those unintentionally caused by sanctions that have overly cumbersome humanitarian exemption procedures. The Commission reiterates the calls made by the Secretary-General of the United Nations and the United Nations High Commissioner for Human Rights to ease or waive sectoral sanctions imposed on countries in order to ensure access to food, essential health supplies and COVID-19 medical support.” (para. 92)</p>

	<p>The January 2021 report findings:</p> <p>“Syrians across the country also suffered violations of the rights to health, food and an adequate standard of living, due to the imposition of sieges, the denial of access to humanitarian aid, the destruction of medical facilities and the resulting lack of access to basic medical care, the denial of access to housing and education and the decimation of the Syrian economy.” (para. 39)</p> <p>In relation to the prolonged sieges the Commission noted that “[i]n some instances, shortages of food, water, and medicine – often due to the Government’s deliberate obstruction of aid access – led to acute malnutrition and deaths among vulnerable groups, including children, the elderly and the infirm. Besieged armed groups confiscated or hid food items, distributing them on a preferential basis within their circles.⁸ In other instances, those in control of besieged areas prevented civilians from leaving by using them as human shields. Throughout the Syrian Arab Republic, the use of siege warfare also breached numerous tenets of international human rights law, including the right to life, the absolute prohibition on torture and cruel, inhuman or degrading treatment, the right to freedom of movement, the right to an adequate standard of living, including adequate food, clothing and housing, and the right to essential primary health care, including essential medicine.” (para. 46)</p> <p>In relation to IDPs the Commission highlighted how “[d]isplacement across the country has been characterized by denial of access to the rights to food, water, health, education and an adequate standard of living. For those in areas outside of government control, a complex web of actors bear the responsibility for those denials.” (para. 67)</p>	<p>The Commission concluded that “Syrians have suffered vast aerial bombardments of densely populated areas; they have endured chemical weapons attacks and modern day sieges in which perpetrators deliberately starved the population along medieval scripts and indefensible and shameful restrictions on humanitarian aid – both cross-line and cross-border, the latter even with the approval of the Security Council. The horrors of the conflict have left no Syrian family untouched.” (para. 96)</p>
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A/HRC/31/68, para. 120; A/HRC/37/72, para. 12 and annex II, sect. V. The Commission notes that the deliberate starvation of civilians is a war crime.

<p>Yemen</p>	<p> Group of Eminent Experts on Yemen (September 2017 – ongoing) </p> <p> * Mandated to monitor and report on the situation on Human Rights in Yemen, carry out a comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict since September 2014 and to establish and identify those responsible. </p>	<p>The August 2018 report findings:</p> <p> “In March 2017, OCHA announced that Yemen had become the world’s largest humanitarian crisis. As of May 2018, out of a population of 29.3m, nearly 17.8m were food insecure and 8.4m people were on the brink of famine. The hungry are even more susceptible to other health complications, including contracting disease”. (para. 14) </p> <p> The conduct of hostilities is further exacerbated by food insecurity, limited access to health care and restrictions on imports of vital commodities. Additionally, the lack of payment of public sector salaries since August 2016, following the Government’s move of the central bank from Sana’a to Aden, has also had a devastating impact on civilians. (para. 19) </p> <p> The coalition has imposed severe naval and air restrictions in Yemen exacerbating suffering of the civilians since March 2015 (paras. 47, 51). </p> <p> “On 6 November 2017, the coalition imposed a total blockade on all the borders of Yemen, preventing all humanitarian aid and commercial trade, including food and fuel, from entering the country” that has had a chilling effect on commercial shipping (paras. 49, 50). </p>	<p> The Group of Experts have concluded that the documented information strongly suggests that violations and crimes under international law have been perpetrated and continue to be perpetrated in Yemen (para. 100). </p> <p> Moreover, the Groups of Experts has grounds to believe that “the Governments of Yemen, the United Arab Emirates and Saudi Arabia are responsible for human rights violations, including unlawful deprivation of the right to life, arbitrary detention, rape, torture, ill-treatment, enforced disappearance and child recruitment, and serious violations of freedom of expression and economic, social and cultural rights, in particular the right to an adequate standard of living and the right to health” (para. 106). </p> <p> The Group of Experts suggests that a review of national and international accountability mechanisms is an imperative step towards a viable and sustainable criminal accountability framework for the Yemeni armed conflict (para. 105). </p>
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“The duration of the restriction raised concerns of the systemic damage to the economy” (para. 52).

“As of April 2018, nearly 17.8 million people were food insecure and 8.4 million were on the brink of famine. Health-care facilities were not functioning, clean water was A/HRC/39/43 9 less accessible and Yemen was still suffering from the largest outbreak of cholera in recent history”. (para 53)

The de facto blockades have had widespread and devastating effects on the civilian population, especially in the areas held by the de facto authorities (para. 47). Given the severe impact that the de facto blockades had on the civilian population and “in the absence of any verifiable military impact, they constitute a violation of the proportionality rule of international humanitarian law” (para. 58).

On the Houthi-Saleh forces controlled entry points into Ta’izz, commanders only permitted civilians to leave the city without their personal belongings. Civilians could only enter the city on foot and much of their food and medicines was confiscated or looted (para. 61).

In October 2016, officials of Saudi Arabia and the coalition forces acknowledged that adequate health care is not available in Yemen when they directed the transfer of those wounded in the airstrike “whose cases necessitate medical treatment outside Yemen” (Annex II, para. 29)

The August 2019 report findings:

"In its humanitarian response plan for 2019, the Office for the Coordination of Humanitarian Affairs estimated that 24.1 million people (almost 80 per cent of the population) were in need of assistance to survive. On 29 March 2019, the World Food Programme declared Yemen "the world's largest food crisis", referred to by many organizations as "entirely man-made". On 17 June 2019, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator publicly confirmed findings of pockets of famine-like conditions in dozens of places across Yemen." (para. 21)

All parties to the conflict regularly used civilian objects for military activities, such as hospitals and religious and cultural sites. This further restricted the extremely limited safe spaces for civilians and exacerbated the dire humanitarian situation. (para. 47)

"Coalition airstrikes notably destroyed or damaged farmland, water facilities, essential port infrastructure and medical facilities. The Houthis planted landmines on farmland and used hospitals for military purposes, which prevented their use or contributed to their destruction." (para. 52)

Access restrictions imposed on Yemen by the coalition, including the de facto naval blockade and the closure of Sana'a International Airport, drastically limited imports and impeded the delivery of relief supplies, thereby significantly contributing to the deterioration of the economy in Yemen. Since August 2018, according to reports, the Yemeni armed forces and affiliated groups have been preventing access to Al-Durayhimi city in Al-Hudaydah Governorate. (para 53)

All parties to the conflict had violated their obligation to allow and facilitate rapid and unimpeded passage of

Actions taken by the parties to the conflict in their military operations and with respect to humanitarian access greatly contributed to the deterioration of the humanitarian situation. The acute humanitarian needs, including relating to famine, are not an incidental result of the armed conflict, but can be avoided, or at least mitigated. (para. 51)

"It remains to be established whether the parties have intentionally used starvation to advance their military aims. However, individuals in the Government of Yemen, the coalition, including Saudi Arabia and the United Arab Emirates, and in de facto authorities may have used starvation as a method of warfare; given that they played a role in depriving the population of objects indispensable to its survival. Such deprivation also amounts to prohibited inhuman treatment. Considered serious violations of international humanitarian law, these acts may lead to criminal responsibility for war crimes." (paras. 56, 96(b)(d))

The Group of Experts recommends to end any measures that exacerbate the humanitarian crisis, in particular, to cease attacks against objects indispensable to the survival of the population and to facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need. (para. 98(b))

	<p>humanitarian relief for civilians. (para. 54)</p> <p>The conflict continued to have a devastating impact on the realization of children fundamental rights, which include <i>inter alia</i> rights to health, food and education. (para. 80)</p> <p>The damage and destruction to health facilities have been subjected continued to limit access to healthcare in Yemen. According to humanitarian service providers, as at December 2018, 2 million children under 5 years of age and 1.14 million pregnant and lactating women required treatment for acute malnutrition. (para. 86)</p>	
	<p>The 2020 report findings:</p> <p>“Among the civilian objects damaged by indiscriminate rocket shelling have been hospitals and medical facilities. Damage to such critical infrastructure has the effect of exacerbating the already grave humanitarian crisis by further reducing access to health care.” (para. 36)</p> <p>The continuous deterioration of the humanitarian situation is attributable to the conduct of all parties to the conflict. (para. 46)</p> <p>The experts continued to investigate a series of attacks against the Red Sea Mills, which were used as a wheat storage and processing site. “The most recent attacks, allegedly by the Houthis, occurred from 18 to 20 May 2020, damaging the production line and parts of the silos, resulting in the Mills not functioning for more than 10 days.” (para. 48-49)</p> <p>“On 16 December 2018, a coalition air strike hit a tanker transporting fresh water for a village and crops in the Wahbyia area, Sawadiyah District, Bayda’ Governorate, a rural area with no known military</p>	<p>“The Group of Eminent Experts considers that, in a situation of such acute food insecurity, the conduct of the parties displays a reckless disregard for the impact of their operations on the civilian population and access to food.” (para. 51)</p> <p>“The Group of Eminent Experts documented a range of conduct by parties to the conflict amounting to the impeding of humanitarian relief supplies in violation of international norms, either by unduly restricting access or by engaging in practices that undermine the ability of humanitarian organizations to carry out their work.” (para. 53)</p> <p>“While parties to a conflict are entitled to oversee the delivery of assistance, bureaucratic requirements cannot unjustifiably delay or impede access.” (para. 54)</p> <p>“The Group of Eminent Experts found reasonable grounds to believe that the Houthis have interfered with humanitarian aid in violation of international human rights law and international humanitarian law. The Group notes that all parties to the conflict have impeded humanitarian operations and the population’s access to food and health care.” (para. 59)</p>

targets nearby.” (para. 50)

The Group also found that the use of landmines further exacerbated food insecurity: they have prevented fishers from reaching coastal areas to fish (affecting availability and market price of fish); many farmers have also been afraid to farm their land or graze their livestock. (para. 52)

“[T]he Group examined reports of burdensome requirements imposed by the Houthis on humanitarian agencies in relation to permits, access, management, and operations.” (para. 54) Further, the Group investigated allegations of the Houthis hampering aid distribution by raiding, looting, and forcing organisations to cease operations. (para. 55)

Other practices affecting food and health include:

“allegations of water being diverted to the highest bidder in the areas of Qallo’ah, Safi and Zaytoon”

“closure of Sana’a international airport in August 2016 by the Government of Yemen and the coalition has precluded civilians from accessing life-saving health care and humanitarian supplies. The airport was reportedly reopened for limited humanitarian purposes from 3 February 2020, however, those exceptions have been insufficient to address the overwhelming humanitarian need.”

“The coalition’s restrictions on imports and access to Hudaydah port have contributed to shortages of fuel and other necessities and to inflation, thereby exacerbating the economic and humanitarian crisis” (paras. 56-58)

“The international community can and should take further initiatives to help bridge the acute accountability gap that persists in relation to the conflict in Yemen. In particular, the Group of Eminent Experts calls upon the Security Council to refer the situation in Yemen to the International Criminal Court, and to expand the list of persons subject to Security Council sanctions. It supports the establishment of a criminally focused investigation body, similar to the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, to conduct further investigations and prepare case files to be shared with relevant prosecutorial authorities.” (para. 99)

The GEE recommended that

“cease attacks against objects indispensable to the survival of the population, take the steps necessary to remove disproportionate restrictions on the safe and expeditious entry into Yemen of humanitarian supplies and other goods indispensable to the civilian population, facilitate the rapid and unimpeded passage of humanitarian relief, and take appropriate steps to ensure the realization of the right to an adequate standard of living, in particular for women and children” (para. 107(c))

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(February 2014 – ongoing)

Mandated to assist the 2140 Sanctions Committee (Yemen), amongst others, in providing information regarding individuals or entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen, including violations of the arms embargo and obstructing the delivery, access, or distribution of humanitarian assistance in Yemen.

The [Final report of the PoE on Yemen](#) 2020 made the following findings:

The Panel investigated and found numerous accounts regarding the obstruction of humanitarian assistance, including lengthy delays in the arrival of medical and nutritional shipments to the port of Aden.

Obstruction of humanitarian assistance, as per information received by the Panel, also included arrests and intimidation of humanitarian workers, illegal seizures of property belonging to humanitarian workers or belonging to humanitarian organizations in Sana'a and numerous bureaucratic and administrative hurdles have been imposed on humanitarian organizations. (p. 45)

In the Panel's opinion, of particular concern is the replacement of the national authority for the management and coordination of humanitarian affairs and disaster recovery with the Supreme Council for the administration and coordination of humanitarian affairs and international cooperation, headed by a Houthi leader. The worrisome result of this shift is the effect of halting many humanitarian activities during the transition period and especially "the provision in article 13 (3) of supreme political council Decree No. 201 of 2019101 that 2 per cent of the budget of each humanitarian project approved will serve to finance the new entity." (pp. 45-46, para. 127)

The Panel further documented cases of women working on women empowerment projects with NGOs arrested and detained by the Houthis and noted that, according to several testimonies from humanitarians, "projects related to women, peace and security or to women empowerment are generally not approved by Houthi authorities." (p. 63, Annex 5, para. 26)

On numerous occasions public funds and collected

The Panel observed that the authorities have an "obligation to ensure rapid and unimpeded passage of humanitarian relief [covering] the initial entry of aid into the country." (p.45, para. 122)

In view of its findings, the Panel recommends that the Security Council:

Include in its upcoming resolution language demanding that the Houthis cease unlawful appropriation and diversion of funds as a source for funding military logistic support.

Condemn the enforced disappearance, sexual violence and repression of women for political activism and expressing their political views, and express the intention to impose sanctions on those who engage in these acts.

Include discussion on challenges faced by women in Yemen and examine to what extent women have been involved in the peace agreements concluded in 2018 and 2019; including in the discussion UN agencies and Yemeni stakeholders working on women-related issues.

Furthermore, the Panel called on the Committee to

Issue a press release calling on the Government of Yemen and members of the Coalition (Saudi Arabia, Sudan and the United Arab Emirates), on the Houthis and other armed groups who have military forces operating in Yemen to remind them that they must strictly adhere to international humanitarian law, investigate and prosecute their personnel who commit violations of international humanitarian law, and actively engage in preventing violations by affiliated armed group.

Send a letter to Saudi Arabia informing it of the importance of the Saudi deposit as a tool for humanitarian assistance and encouraging it to improve the way the deposit is used so that it benefits all Yemenis and is prevented from being used as a tool of economic warfare. (p. 47, para. 128 (f))

	<p>revenues have been diverted or appropriated by public officials (pp. 28-29, para. 76),</p> <p>The Panel has documents showing a transfer from the Food and Agriculture Organization of the United Nations, the United Nations Development Programme (UNDP), the United Nations Children’s Fund and the World Health Organization of \$3,215,235 to an account owned by Yemen Armored... The Panel received further information that UNDP had transferred \$995,197.35 to Yemen Armored in six instalments during October and November 2019. UNDP confirmed that it had had an agreement with Yemen Armored, with Mr. Arrahbi as director, since 2017, and informed the Panel that it had not been aware of any change in the management of Yemen Armored or appropriation by the Houthi. (p. 34, Table 4, fn. d)</p> <p>Between 2017 and 2019, 11 women were arrested, detained, tortured and raped in Houthi custody in view of their political activism and participation in demonstration, including a gathering on 6 October 2018 (“starvation march”) to protest food insecurity in Houthi-controlled areas. (p. 60, paras. 7-8)</p>	
	<p>The Final Report of the PoE on Yemen 2021 made the following findings</p> <p>“The Panel investigated a case of money-laundering and corruption perpetrated by officials of the Government of Yemen, which affected the access to adequate food supplies for Yemeni civilians, in violation of the right to food.” (para. 103)</p> <p>The Commission found that:</p> <p>“From the end of 2019 to mid-2020, the Panel documented a degradation in relations between the Houthis and specific United Nations agencies and</p>	<p>The Panel recommended that</p> <p>“Noting the impact of acts of asset diversion on the economy and the food security of Yemenis, which exacerbates the humanitarian crisis and undermines the overall security and stability of the country, the Panel calls on the Security Council to consider further elaborating the criteria contained in paragraph 18 of resolution 2140 (2014) to include such acts.” (para. 161)</p>

humanitarian actors. This involved an increase in threats, intimidation, movement restrictions and violence against humanitarian personnel (see annex 7). Although these acts did not stop, they decreased in the past few months and some progress has been reported: the 2 per cent tax on all humanitarian projects⁹ was cancelled, more than 130 pending project agreements were approved and a pilot programme using biometric identification for food assistance beneficiaries started in Sana'a. However, substantial hurdles to principled humanitarian action remain in Houthi-controlled areas and the Panel continues to receive evidence of threats and intimidation towards humanitarian actors." (para. 156)

"The Panel received information that delays in concluding agreements and subagreements are a recurring problem in areas controlled by the Government of Yemen, notably because these agreements have to be approved by several entities at the ministerial and local levels, and that local authorities often try to interfere in humanitarian assistance despite the official policy of the Riyadh-based Government of Yemen. In late November, after accusations of corruption arose relating to the presence of expired or damaged foods, WFP was unable to access its warehouses in Aden owing to the presence of military personnel, which delayed the delivery of food assistance. According to information received by the Panel, the food was awaiting disposal and two WFP staff were put under an interdiction to leave Yemen." (para. 158)

⁹ See S/2020/326, para. 127.

Venezuela

UN Human Rights Council

In a resolution passed on 24 September 2019, the Human Rights Council made the following findings:

Expressing deep concern at the range of interrelated violations of economic and social rights in the Bolivarian Republic of Venezuela, particularly the rights to adequate food and to the highest attainable standard of physical and mental health, including severe food, medicines and vaccines shortages (p. 1).

Expressing deep concern for the more than 4 million people compelled to leave the Bolivarian Republic of Venezuela and also that the 2019 Venezuela Humanitarian Response Plan identifies a population of seven million in need because of, inter alia, violations of the rights to food and health, violence and insecurity, the collapse of basic services, the deterioration of the education system, lack of access to pre- and post-natal care, and insufficient mechanisms for protection from violence and persecution on political grounds (p. 1).

Expresses deep concern at the fact that the main food assistance programme does not meet basic nutritional needs of the population, and that at least 3.7 million people are malnourished in the Bolivarian Republic of Venezuela (p. 4)

Urges the Venezuelan authorities to take all measures necessary to ensure the availability and accessibility of food, water, essential medicines and health-care services to all those in need, including comprehensive preventive health-care programmes, with particular attention to children's and maternal services, and urges the Venezuelan authorities to accept all necessary humanitarian assistance, delivered in accordance with international humanitarian principles (p. 4).

Strongly condemns discrimination based on political

Due to these concerns, the Human Rights Council:

1. Requested the High Commissioner to continue to monitor and report on the situation of human rights in the Bolivarian Republic of Venezuela, including through the presentation of oral updates to the Human Rights Council at its forty-third and forty-fifth sessions, and to prepare a comprehensive written report on the situation of human rights in the Bolivarian Republic of Venezuela, with a special focus on the independence of the justice system and access to justice, including for violations of economic and social rights and the situation of human rights in the Arco Minero del Orinoco region, and to present the report to the Council at its forty-fourth session, to be followed by an interactive dialogue (p. 5);
2. Decided to establish, for a period of one year, an independent international fact-finding mission, to be appointed by the President of the Human Rights Council, and to dispatch that mission urgently to the Bolivarian Republic of Venezuela to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment since 2014, with a view to ensuring full accountability for perpetrators and justice for victims, and requests the mission to present a report on its findings to the Council during an interactive dialogue at its forty-fifth session (p. 5).
3. Urged the Venezuelan authorities to cooperate fully with the fact-finding mission, to grant it immediate, full and unfettered access to and throughout the country, including to victims and places of detention, and to provide it with all the information necessary to fulfil its mandate (p. 5);

Requested the immediate operationalization of the fact-finding mission and also requests that the Office of the High Commissioner be provided with all the resources necessary

	<p>grounds in access to food assistance and other social programmes against Venezuelans increasingly relying on them to have access to minimum levels of income and food, and urges that all social programmes be provided to all those in need in a transparent, non-politicized and nondiscriminatory manner (p. 4).</p> <p>Urges the Venezuelan authorities to adopt appropriate measures to address reported acts of violence and harassment, sexual violence against women and girls in detention in the Bolivarian Republic of Venezuela, which includes accounts of physical, sexual and verbal abuse, threats and intimidation, the sexual exploitation of women and girls for food, protection and privileges, and the ill-treatment, torture and denial of rights of women human rights defenders, nurses, teachers and civil servants, women political prisoners and detainees in detention centers (p. 4).</p> <p>Underlines with grave concern that the crisis in the Bolivarian Republic of Venezuela also has a disproportionate and differentiated impact on the human rights of indigenous peoples, particularly on their rights to an adequate standard of living, including their rights to food and to health and on their collective rights as indigenous peoples, particularly their rights to their traditional lands, territories and resources (p. 4).</p>	to fulfil the mandate (p. 5);
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Tribunals and Court Jurisprudence

Court / Tribunal	Case	Offence Charged / Discussed	Findings
The International Military Tribunal	The International Military Tribunal (Nuremberg) 1945-1946	<p>- Crimes against Peace by the planning, preparation, initiation, and waging of wars of aggression</p> <p>-War Crimes</p> <p>-Crimes against Humanity.</p> <p>-The defendants are also charged with participating in the formulation or execution of a common plan or conspiracy to commit all these crimes</p> <p>*Discusses starvation in the context of detainees but also in relation to wider (non detained) civilian population.</p>	<p><u>1. Indictment:</u></p> <ul style="list-style-type: none"> - Count One (the common plan or Conspiracy to commit crimes against peace, war crimes and crimes against humanity) it was alleged that “[t]he program of action against the Jews included disenfranchisement, stigmatization, denial of civil rights, subjecting their persons and property to violence, deportation, enslavement, enforced labour, <u>starvation</u>, murder and mass extermination.” (p. 34) - <u>Under Count Three</u>, (war crimes) it was alleged that “The murders and ill-treatment were carried out by divers means, including shooting, hanging, gassing, <u>starvation</u>, gross over-crowding, <u>systematic under-nutrition</u>, systematic imposition of labour tasks beyond the strength of those ordered to carry them out...” (p. 43). Underlying acts are: <ul style="list-style-type: none"> - Starvation of thousands of Soviet citizens in Novgorod and Minsk (p.49) - Starvation of American prisoners (p.53) - Extermination of PoWs in Orel through starvation, shooting, exposure and poisoning (p.54) - Count Four (crime against humanity of persecution on political, racial and religious grounds), it was alleged that “concentration camps and ghettos were set up in which Jews were incarcerated and tortured, starved, subjected to merciless atrocities and finally exterminated.” <p><u>2. Judgement:</u></p> <ul style="list-style-type: none"> - The Soviet prisoners of war were left without suitable clothing: the wounded without medical care; they were starved and, in many cases, left to die (p. 230). - “The evidence of the widespread starvation among the Polish People in the Government General indicates the ruthlessness and the severity with which the policy of exploitation was carried out (p. 241) ... The food raised in Poland was shipped to Germany on such a wide scale that the rations of the population of the occupied territories were reduced to the starvation level, and epidemics were widespread.” (p. 297)

			<ul style="list-style-type: none"> - “In the camp of Auschwitz alone [from 1 May 1940 to 1 December 1943] ...500,000 died from disease and starvation” (p. 251). - In occupied Polish territories “[Jews] were forced into ghettos, subjected to discriminatory laws, deprived of the food necessary to avoid starvation and finally systematically and brutally exterminated” (p. 298). - Hans Frank was found to be a willing and knowing participant in the economic exploitation of Poland in a way which led to the death by starvation of a large number of people, leading to his conviction under Counts Three and Four” (p. 298). - A memorandum which indicated that the immediate purpose was feed the German Armies from Soviet territory in the third year of the war even if “as a result many millions of people will be starved to death if we take out of the country the things necessary for us” was used as evidence (p. 214).
<p>The American Military Tribunal [Tribunal V]</p>	<p>United States of America, vs. Wilhelm von Leeb, et al., Case No. 12, Judgement, 27 October 1948</p>	<p>(1) crimes against peace (2) war crimes (3) crimes against humanity; and (4) a common plan or conspiracy to commit the crimes charged in counts one, two, and three.</p>	<ul style="list-style-type: none"> - “The Soviet prisoners of war were left without suitable clothing; the wounded without medical care; they were starved, and in many cases left to die” (p. 493). - “Wimmler again who stated in October 1943: “What happens to a Russian, a Czech, does not interest me in the slightest [...] <u>Whether nations live in prosperity or starve to death interests me only in so far as we need them as slaves for our Kultur</u>” (pp. 500). - “Criminal conduct pertaining to the siege of Leningrad: Leningrad was encircled and besieged (...) We find this was known to and approved by von Leeb. Was it an unlawful order? <u>“A belligerent commander may lawfully lay siege to a place controlled by the enemy and endeavour by a process of isolation to cause its surrender. The propriety of attempting to reduce it by starvation is not questioned.</u> Hence, the cutting off of every source of sustenance from without is deemed legitimate. It is said that if the commander of a besieged place expels the non-combatants, in order to lessen the number of those who consume his stock of provisions, it is lawful, though an extreme measure, to drive them back so as to hasten the surrender.” (pp. 563) - “The enemy propaganda exploits the situation and is working hard at it. The population is told over and over again that they will be employed in the front line by the Germans and <u>that they are bound to starve due to the small rations.</u> (pp. 573)
<p>Jerusalem District Court</p>	<p>Attorney General of the Government of Israel v Adolf Eichmann, Case No. 40/61, Trial</p>	<p>Crimes against humanity comprising: Murder Extermination Enslavement</p>	<p>Eichmann was convicted, pursuant to the fifth count, crime against humanity, during the period from August 1941 to May 1945, in the territories and areas occupied by Germany, he caused the murder, extermination, enslavement, starvation and deportation of the Jewish civilian population in those countries and in those areas.” (para. 244(5))</p>

	<p>Judgement, 11 December 1961</p>	<p>Starvation deportation of civilian population persecution on national, racial, religious or political grounds. (para. 200)</p>	
<p>The Supreme Court sitting as the High Court of Justice</p>	<p>Supreme Court of Israel, Physicians for Human Rights et al. v Commander of the IDF Forces in the Gaza Strip, Case No. HCJ 4764/04, Judgement, 30 May 2004</p>	<p>The claimants argued that IDF violated rules of IHL regarding the supply of water, food, electricity and medical supplies, the evacuation of the wounded, the burial of the dead, in relation to the local population in Rafah. They also sought an investigation into an incident in which a crowd was allegedly shelled, and a request that doctors should be allowed into the Gaza Strip in order to assess the medical needs in the area.</p> <p>The Hague Convention (Art 46), and the Fourth Geneva Convention (Arts 20, 23, 27, 55, 59, 63); general principles of Israeli administrative law.</p>	<ul style="list-style-type: none"> - The duty of the military commander is not restricted merely to preventing the army from harming the lives and dignity of the local residents. He also has a ‘positive’ duty to protect the lives and dignity of the local residents, all of which is subject to the restrictions of time and place. Damage to the water supply is something that should be foreseen from the outset, and if it cannot be avoided, a solution to this problem must be arranged. Sufficient supplies of medicines, medical equipment and food should be prepared in advance. Carrying out this obligation in practice is naturally dependent on the conditions of the fighting. However, it is prohibited for the fighting to result in the starvation of local inhabitants under the control of the army (see <i>Almadani v. Minister of Defence</i> [5], at p. 36 {53-54}). The respondent should not rely solely on international and Israeli aid organizations, even though their aid is important. Since IDF has effective control of the area, it has a basic obligation to the civilian population under its control (cf. art. 60 of the Fourth Geneva Convention) (paras. 20 and 35) - The court denied all petitions. It found that six of the seven reliefs that were requested by the petitioners have already been satisfied. The petitioners are not entitled to the seventh relief — the entry of Israeli doctors on behalf of the first petitioner into the area in general and A-Najar Hospital in particular — because of the danger that the doctors will be taken hostage (para. 38)

International Criminal Tribunal for Rwanda (ICTR)	Prosecutor v. Clément Kayishema & Obed Ruzindana, Case No. ICTR-95-1- I, Judgment , 21 May 1999	Genocide Murder Extermination	<ul style="list-style-type: none"> - <u>The Chamber acknowledges the Prosecution argument that Tutsis seeking refuge at the four crime sites were deprived of food, water and adequate sanitary and medical facilities. These deprivations, however, were a result of the persecution of the Tutsis, with the intent to exterminate them within a short period of time thereafter. Additionally, the Chamber finds that the time periods during which these deprivations occurred were not of sufficient length or scale to bring about the destruction of the group. Therefore, the Trial Chamber only examines killings (para. 548).</u> - The Trial Chamber finds that those Tutsis who initially attempted to leave the Church in search of food or water were forced to retreat or beaten to death by armed assailants outside the Church (para. 560).
	Prosecutor v. Athanase Seromba, ICTR-2001-66-I, Judgment , 13 December 2006.	Genocide The Chamber conceived this conduct as the actus reus of the assistance provided by the Accused in the commission of acts causing serious bodily or mental harm to Refugees	The Chamber also finds that the order by Athanase Seromba prohibiting refugees from getting food from the banana plantation facilitated the perpetration of acts causing serious bodily harm to the refugees. Indeed, on 14 April 1994, the refugees lacked food and had very limited access to basic foodstuffs from the outside, due to the encirclement of the church. Under such circumstances, Seromba's refusal to allow the refugees to get food from the banana plantation substantially contributed to their physical weakening, as they were deprived of food. The Chamber is satisfied that by his conduct, Seromba substantially contributed towards the commission of acts causing serious bodily harm to the Tutsi refugees in Nyange church. (para. 327)
Extraordinary Chambers in the Courts of Cambodia (ECCC)	Case of IM Chaem, Considerations on the International Co-Prosecutor's Appeal of Closing Order (Reasons), Case No. 004/1/07-09-	Deprivation of food and water constituting other inhumane acts Attack on human dignity Deprivation of food and water constituting persecution	- Deprivation of food and water together with deprivation of adequate shelter, medical assistance, and the subjection of an individual to unacceptable sanitary conditions was held to be an attack against the human dignity and fall within the ambit of "other inhumane acts" listed under Article 5 of the ECCC Law (para 77).

	2009/ECCC OCIJ (PTC50) (28 June 2018)	<p>Deprivation of food and water constituting genocide Deprivation of food and water constituting extermination</p>	
	Case 002, Closing Order, Doc. No. D427, paras 338, 341-342, 378-379, 392, 408 (15 September 2010) (Office of the Co-Investigating Judges, Extraordinary Chambers in the Courts of Cambodia)	<p>Deprivation of food and water constituting other inhumane acts Attack on human dignity Deprivation of food and water constituting persecution Deprivation of food and water constituting genocide Deprivation of food and water constituting extermination</p>	<ul style="list-style-type: none"> - Depriving the civilian population of adequate food, among others, was found to inflict serious mental and physical suffering and injury and to constitute a serious attack on human dignity of similar gravity to other crimes against humanity (para. 1435). - Factually, the Chamber found that civilians were forced to move from their places of residence on short notice and were not provided with sufficient food or water during the population movement, which resulted in many people dying or developing sicknesses or injuries, exhaustion or psychological trauma (para. 1436). - Detainees received two meals per day, which were deemed to be insufficient. A number of detainees died as a result of the living and working conditions in detention camps. (paras. 408, 1438).
	Case 002/01 Trial Judgement, Doc. E313, para. 737 (7 August 2014) (Trial Chamber, Extraordinary Chambers in the Courts of Cambodia)	<p>Deprivation of food and water constituting other inhumane acts Attack on human dignity Deprivation of food and water constituting persecution Deprivation of food and water constituting genocide Deprivation of food and water constituting extermination</p>	<p>Deprivation of food and water constituting persecution:</p> <ul style="list-style-type: none"> - Deprivations of food, water adequate shelter and medical assistance and sub-par sanitary conditions in the context of detention have been described as cruel and inhumane treatment that can rise to the level of gravity of other crimes against humanity and may amount to persecution (para 457). This finding was made with reference to ICTY jurisprudence stemming from Blaskic, Stanasic & Zupljanin, Blagojevic, Jokic and Sikirica trials. <p>Deprivation of food and water constituting genocide:</p> <ul style="list-style-type: none"> - In the context of genocide, the same deprivations have been considered to evidence conditions of life that would bring about a group's physical destruction (para. 457) <p>Deprivation of food and water constituting extermination:</p> <ul style="list-style-type: none"> - The old, the young and the sick were all moved over the course of days, or as long as a week, without medical assistance, sufficient food or water, no shelter or hygiene facilities either en route or during stops, and in over-crowded trucks and trains. There is evidence indicating that many died due to starvation, exhaustion and at the hands of their Khmer Rouge guards during different stages and phases of the transfer (para.

			<p>647). The Chamber accordingly found that Khmer Rouge soldiers and officials systematically and intentionally imposed conditions on people moved from southern Cambodia to Battambang and Pursat Provinces (Northwest Zone) that would likely lead to death on a massive scale. The Chamber found that Khmer Rouge soldiers and officials committed the CAH of extermination during transfers from southern Cambodia to Battambang and Pursat Provinces (Northwest Zone) (para. 648).</p>
	<p>Case of Kaing Guek Eav alias Duch, Judgment, Case No. 001/18-07-2007/ECCC/TC, ECCC (26 July 2010).</p>	<p>Deprivation of food and water constituting other inhumane acts Attack on human dignity Deprivation of food and water constituting persecution Deprivation of food and water constituting genocide Deprivation of food and water constituting extermination</p>	<ul style="list-style-type: none"> - The Accused indicated that detainees were deliberately fed starvation rations and given limited medical treatment... (para. 207) The Chamber further finds that S-21 and S-24 detainees died as the result of unlawful omissions known to be likely to lead to their death and as a consequence of the conditions of detention imposed upon them (para. 339). <p>Deprivation of food and water constituting other inhumane acts:</p> <ul style="list-style-type: none"> - Food rations were extremely scarce ... Due to the scarcity of food, detainees resorted to eating insects that fell on the floor, for which they could be beaten if a guard saw them. [...] The Accused acknowledged that the deprivation of adequate and sufficient food was deliberate and meant to debilitate the detainees in order to maintain control over the prison population, prevent riots and facilitate the generation of confessions... (para. 269) The Chamber finds that S-21 detainees suffered serious bodily and mental harm from the deplorable conditions of detention deliberately imposed upon them by S-21 staff. (para. 372)
<p>International Criminal Tribunal for the Former Yugoslavia (ICTY)</p>	<p>Prosecutor v. Zejnil Delalić et al., Case No.: IT-96-21-T, Trial Judgement, 16 November 1998 (In the context of detainees)</p>	<p>Art. 3 of the ICTY Statute (violations of customs of war) - Cruel or inhuman treatment.</p>	<p>Deprivation of food and water as wilfully causing great suffering or serious injury to body or health:</p> <ul style="list-style-type: none"> - Whilst incarcerated in the Celebici prison camp, the detainees were deprived of even the most basic of human needs. Water, though apparently plentiful in the prison-camp, was only made available to the detainees in insufficient quantities... Similarly, food rations for the detainees were grossly inadequate. (para. 1113). [...] Trial Chamber found that the creation and maintenance of an atmosphere of terror in the Celebici prison-camp, by itself and a fortiori, together with the deprivation of adequate food, water, sleeping and toilet facilities and medical care, constitutes the offence of cruel treatment under Article 3 of the Statute, and wilfully causing great suffering or serious injury to body or health under Article 2 of the Statute (para. 1119).

	<p>Prosecutor v. Radislav Krstić, Case No.: IT-98-33-T, Trial Judgement, 2 August 2001</p>	<p>Art. 3 of the ICTY Statute (violations of customs of war) - Cruel or inhuman treatment.</p>	<p>As murder and persecution:</p> <ul style="list-style-type: none"> - In early July 1995, a series of reports issued by the 28th Division reflected the urgent pleas of the ABiH forces in the enclave for the humanitarian corridor to be deblocked and, when this failed, the <u>tragedy of civilians dying from starvation (para. 28)</u>. - Bosnian Serb forces had <u>destroyed the town's water supplies</u> in the take-over of Srebrenica (para.15). - Even before the offensive of July 1995 and as early as January 1995, the Bosnian Serb forces <u>tried to prevent the humanitarian convoys from getting through to the enclave</u>. As a result, <u>several persons died from starvation</u> on 7 and 8 July 1995 and a report from the command of the 28th Division, dated 8 July 1995, warned that the civilian population would very soon be forced to flee the enclave if it wished to survive" (para. 566). <p>*See also para. 26 on access to objects indispensable to survival such as medicine, food and fuel.</p>
	<p>Prosecutor v. Popović et al., Case No.: IT-05-88-T, Trial Chamber Judgement, 10 June 2010</p>	<p>Art. 3 of the ICTY Statute (violations of customs of war) - Cruel or inhuman treatment.</p>	<p>The Chamber held that crimes against humanity took place on several grounds, two of which are connected to deprivations of economic and social rights. First, on the ground of cruel and inhuman treatment since male detainees in different locations "had little, if any, food, water or medical treatment [and] some prisoners were so thirsty that they drank their own urine" (paras. 993-994). For the Chamber, such treatment "constitutes a blatant denial of fundamental rights that had a severe impact on the victims" (paras. 993-994). "The males in Potočari first had to endure a painful separation process and the anxiety that followed from not knowing what would happen to their families. Once detained, the men had their personal property – including identification cards and passports – removed and uncertainty as to their ultimate fate turned to fear and terror. <u>They were detained in intolerable conditions of overcrowded facilities with no food, little if any water and abhorrent sanitary conditions</u>" (para. 844).</p> <p>"The Trial Chamber recalls that before their execution, the men were detained in a number of locations around Potočari, Bratunac and Zvornik and were likewise killed in a number of different places. (...) <u>That the organization was designed to maximize the number of victims is further evidenced by the conditions of detention which generally disregarded even basic needs for survival such as food and water</u>" (para. 858).</p>
	<p>Prosecutor v. Dragan Nikolic, Case No. IT-94-2-I, Sentencing</p>	<p>Inhumane living conditions</p>	<p>As part of the persecutions, Dragan Nikoli <u>subjected detainees to inhumane living conditions by depriving them of adequate food</u>, water, medical care, sleeping and toilet facilities (para. 69)</p>

	<p>Judgement, December 2003 (In the context of detainees)</p>		
	<p>Prosecutor v. Zdravko Tolimir, Case No.: IT- 05-88/2-T, Trial Judgement, 12 December 2012</p>	<p>Genocide and conspiracy to commit genocide, murder, persecutions, forcible deportation and extermination.</p>	<p>It was under the charge of forcible deportation that starvation and weakening of the population was considered. “From this totality of these coercive conditions—enduring repeated attacks, <u>starving for resources</u>, and suffering great fear—it was only logical that the Bosnian Muslim civilians welcomed the possibility to board buses to leave the enclave. This was not the will of the population, but rather the absence of any other genuine choice” (para. 830).</p>
	<p>Prosecutor v. Jadranko Prlić et al., Case No.: IT-04-74-T, Trial Judgement, 29 May 2013 (In the context of detainees)</p>	<p>Cruel Treatment</p>	<p>Deprivation of food as cruel treatment: “[S]ome detainees received very little food, which was furthermore of bad quality, and that, consequently, the detainees lost weight, sometimes a lot of weight (one detainee lost 47 kilograms in nine months of detention at the Heliodrom) (para 1176). caused them great physical and mental suffering and were a serious attack on their dignity.” (paras. 1177 - See also paras. 1181-1182, 1184, 1192-1194, 1197-1199, 1201-1202, 1204-1205 for further examples. See also Limaj et al. Trial Judgment, paras 288-289, 333, 652 for similar examples). Article 3 satisfied in this case.</p>
	<p>Prosecutor v. Radovan Karadžić, Case No.: IT-95-5/18- AR98bix.1, Appeal Judgement, 11 July 2013 (In the context of detainees)</p>	<p>Genocide</p>	<p>Deprivation of food as genocide: Bosnian Muslim and/or Bosnian Croat detainees: were given insufficient or no food, leading to malnutrition, starvation and severe weight loss; were sometimes deprived of water; ... (para. 48). The Appeals Chamber is satisfied that evidence adduced by the Prosecution, when taken at its highest, indicates that Bosnian Muslims and Bosnian Croats were subjected to conditions of life that would bring about their physical destruction, including severe overcrowding, deprivation of nourishment, and lack of access to medical care” (para. 49).</p>

	<p>Prosecutor v. Radovan Karadžić, Case No.: MICT-13-55-A, Appeal Judgment, 20 March 2019</p>	<p>Article 4 ICTY Statute - Genocide (Srebrenica JCE)</p>	<p>"The Trial Chamber noted that following the issuance of Directive 7, humanitarian aid deliveries fell considerably, the conditions in Srebrenica deteriorated to "disastrous levels", and by the end of June 1995, some residents had died of starvation. According to the Trial Chamber, the restriction of access to Srebrenica, which was implemented by Mladic, allowed Karadzic to maintain control over goods and personnel entering Srebrenica during the period leading to its take-over. The Trial Chamber concluded, partly based on the considerations, that, by the time Directive 7 was issued, Karadzic and Mladic had devised a long-term strategy aimed at the eventual forcible removal of the Bosnian Muslims from Srebrenica through, inter alia, the deliberate restriction of humanitarian aid, and that Karadzic shared the common purpose of and significantly contributed to the Srebrenica JCE." (para. 565)</p> <p>The Appeals Chamber found that Karadzic has failed to demonstrate that the Trial Chamber erred in finding that Karadzic implemented Directive 7 by restricting access to humanitarian aid in Srebrenica. (para. 573)</p>
	<p>Prosecutor v. Stanislav Galić, Case No. IT-98-29-T, Trial Judgement, 5 December 2003 (in the context of the siege of Sarajevo)</p>	<p>Infliction of terror contrary to violations of law / customs of war A3 Statute, sniping as CAH murder, inhumane acts and violations of laws and customs of war.</p>	<p>"At the time of General Galić's appointment as commander of the SRK, the military encirclement of Sarajevo was achieved. In itself, that encirclement is not directly relevant to the charges of the Indictment. Neither are the military attacks, which were not illegitimate even where such attacks may have resulted in proportionate or incidental civilian casualties or fear" (para. 609).</p> <p>"The Majority of the Trial Chamber is mindful of the siege-like conditions in the city of Sarajevo where one party to the conflict (the ABiH) was mixed with the civilian population which could be compared as a stalemate situation and of the evidence which suggests that, at times, the other warring party sought to attract sympathy from the international community by attracting SRK counter-fire or fire at its own civilians. The behaviour of the other party, however is not an excuse for the deliberate targeting of civilians and, as such, does not alleviate the responsibility of the Accused. The Majority finds that the fact that General Galić occupied the position of VRS Corps commander, and repeatedly breached his public duty from this very senior position, is an aggravating factor" (para. 765).¹¹</p> <p>See further footnote 33, that details witness evidence of starvation considered by the trial chamber.</p> <p>Separate and Partially Dissenting Opinion of Judge Nieto-Navia "5.</p> <p>Living conditions within the city 'The evidence indicates that the SRK permitted humanitarian aid and buses transporting civilians who wished to leave the city to pass through its check-points. Secure corridors, otherwise known as "blue roads," were established to allow humanitarian convoys and civilians to enter the city. Inspectors were posted along these roads to check that</p>

			<p>humanitarian convoys were not used to smuggle military equipment. The evidence suggests though that some of these convoys, which were escorted by armoured personnel carriers belonging to the UNHCR, were misused to transport weapons and ammunition into the city" (para. 7).</p> <p>“Although Sarajevo was the focal point of an ongoing war, the Trial Record does not disclose that the population within the city suffered from widespread starvation or a generalized shortage of medicine. There were some problems with access to running water and electricity because of damage done by the fighting to power lines and water pipes. According to one UN representative, certain local BiH leaders delayed needed repairs of the utility networks in order to attract international sympathy. It appears though that in areas under the effective control of the BiH Presidency, utilities were repaired promptly. Furthermore, there is no evidence establishing that the SRK obstructed these repairs or wilfully interrupted the water or electric supply. On one occasion, the supply of electricity was interrupted for three months because both the ABiH and the SRK would not guarantee the safety of repair teams who needed access to power lines near the confrontation lines. The Trial Record also discloses that a number of civilians wishing to escape from the city and its living conditions were blocked by the ABiH in order to preserve the morale of troops” (para. 8).</p>
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¹¹ Tucker, T. 10030; Ex. D136 (UNMO briefing dated 16 November 1993).

According to John Ashton, an international observer who had curiously seen very few ABiH forces within the city, a number of old persons were “literally dying of malnutrition because they were too terrified to come out.” Ashton, T. 1215 and 1371.

A doctor at Sarajevo’s State Hospital also explained that his facility had an insufficient supply of medicine. Mandilovic T. 1017 – 1021 and 1101. 25 Tucker, T. 10030.

A Serbian civilian living in the city remembered that he had heard that the ABiH manipulated the supplies of water and electricity in order to provoke an outside intervention. Witness DP1, T. 13300.

	<p>Prosecutor v. Dragomir Milošević, Case No.: IT-98-29/1-T, Trial Judgement, 12 December 2007 (in the context of the siege of Sarajevo)</p>	<p>Crime of Terror Article 3 ICTY</p>	<p>“Not only was the civilian population starved and deprived of its opportunity to leave the city for fourteen months, it was also subjected during that period to conditions which would inevitably instil extreme fear and create insecurity by virtue of the incessant sniping and shelling of the city. The inability to escape from this trap of horror for any extended period of time unavoidably weakened the besieged population’s will to resist, and worse, it left deep and irremovable mental scars on that population as a whole” (para. 910).</p> <p>“The Trial Chamber finds that every incident of sniping resulting in death or serious injury that has been referred to earlier in the Judgement, and in respect of which it found that the sniping originated from Bosnian Serb-held territory and was carried out by members of the SRK, is an example of terror within the meaning of Count 1” (para. 911).</p> <p>“Snipers targeted places where civilians gathered, including, for example, markets, trams and where people queued for food and water. Sometimes snipers would shoot at the water containers people were carrying. Witnesses recalled going to collect water late at night or very early in the morning to avoid sniping” (para. 208).</p>
			<p>“For a period of almost 15 months, civilians, including women, and boys and girls, of varying ages, were targeted by SRK snipers while at home, while gathering food, water or firewood necessary for survival, while going to work and while driving trams. Witnesses also described being at home, involved in daily activities such as talking with neighbours or drinking coffee, at the moment a shell or bomb exploded on, or in the vicinity of, their houses. Market places, tram lines and water collection points were targeted with shells” (para. 937).</p>
	<p>Prosecutor v. Dusko Tadić, Case No.: IT-94-1-T, Trial</p>	<p>Article 2 ICTY - Wilfully causing great suffering, or serious injury to body or health as Grave</p>	<p>“Around the latter part of June or the first part of July, 1992, near the building known as the “white house,” a group of Serbs from outside the camp, including Duško TADIĆ, ordered prisoners, whose names are not known, to drink water like animals from puddles</p>

	<p>Judgment, 7 May 1997 (in the context of detainees)</p>	<p>Breaches of GC; Article 3 ICTY - Cruel Treatment as violation of laws or customs of war; Article 5 ICTY - Inhuman Acts as CAH (Counts 18-20 respectively)</p>	<p>on the ground, jumped on their backs and beat them until they were unable to move. As the victims were removed in a wheelbarrow, TADIĆ discharged the contents of a fire extinguisher into the mouth of one of the victims” (para. 305).</p> <p>“ (...) Some of these necessarily cast some doubt upon the accuracy of recollection of certain of the Prosecution witnesses, particularly regarding the precise sequence of events. This is, perhaps, not surprising having regard to the conditions to which prisoners were subjected in the Omarska camp: the fear in which prisoners constantly lived, the especially terrifying conditions existing on 18 June 1992 in the hangar building, the physical mistreatment and near-starvation to which they were subject and the lapse of time, involving gross disruption of their lives, since the events of which they speak” (para. 233).</p>
	<p>Prosecutor v. Miroslav Kvočka et al., Case No.: IT-98-30/1-T, Trial Judgment, 2 November 2001 (in the context of detainees)</p>	<p>Article 5 ICTY – Inhumane Acts as CAH</p>	<p>“The Trial Chamber notes that the accused were not responsible for the general conditions of detention in the camp (such as food supplies or amount of available space), as their roles were primarily related to security of the camp. In this capacity, the accused played a role in keeping the detainees in the camp” (para. 325).</p> <p>“The Trial Chamber takes account of the fact that most of the crimes were committed within the context of participating in a joint criminal enterprise. Several aspects of this case were critical to our decision that the five defendants did participate significantly and unlawfully in a persecutory system against non-Serb detainees, and these aspects deserve recalling, even though they will not be considered as aggravating circumstances. The first aspect is the pervasive and intense nature of the cruelties and deprivations, recounted in detail in Parts II and IV. Omarska was not a place where occasional random acts of cruelty against inmates occurred or where living conditions were simply hard. This was a hellish environment in which men and women were deprived of the most basic needs for their survival and of their humanity: food of edible quality; the opportunity to freely perform basic bodily functions; a place to sleep; water to drink and use for washing; and access to friends or family. Omarska was a place where beatings occurred daily and with devilish instruments of torture. No one could mistake Omarska for merely a badly run prison; it was a criminal enterprise designed to operate in a way that destroyed the mind, body, and spirit of its prisoner” (para. 707).</p>
	<p>Prosecutor v. Milorad Krnojelac, Case No.: IT-97-25-T, Trial</p>	<p>Article 3 ICTY – Cruel Treatment as a violation of laws or customs of war; Article</p>	<p>“Under COUNTS 13 and 15, the Prosecution charges the Accused with having committed inhumane acts as a crime against humanity, pursuant to Article 5(i) of the Statute, and with cruel treatment as a violation of the laws or customs of war, pursuant to Article 3 of</p>

	<p>Judgment, 15 March 2002 (in the context of detainees)</p>	<p>5 ICTY – Inhumane Acts as CAH; Article 5 ICTY – Persecution as CAH</p>	<p>the Statute and recognised by Article 3(1)(a) of the Geneva Conventions. This charge is based on the Prosecution’s allegation that, while the Accused was warden of the KP Dom, living conditions in the camp were characterised by inhumane treatment, overcrowding, starvation, forced labour and constant physical and psychological assault” (para. 9).</p> <p>“Perhaps the most marked contrast between the treatment of Serbs and non-Serbs was with regard to food, both in quantity and in quality. While the Trial Chamber is satisfied that there were certain restrictions on the quantity and quality of food available during the conflict, it finds that the food available was not distributed equally among the detainees. Serbs received more food and of better quality than that given to non-Serbs. Serbs were allowed second helpings at meals and weight loss was negligible during the period of their detention. In addition, while the food was cooked in the same cauldron for all detainees and convicts, nutritious ingredients were added to enrich the meals of the Serbs who ate after the non-Serbs. Further, unlike the non-Serb detainees, they were permitted to supplement their diet with supplies brought by relatives” (para. 442)</p> <p>“The Trial Chamber is satisfied that the establishment and perpetuation of inhumane conditions, constituting inhumane acts and cruel treatment of the non-Serb detainees, was carried out with the intent to discriminate against the non-Serbs detainees because of their religious or political affiliations. Accordingly, the Trial Chamber is satisfied that the crime of persecution has been established” (para. 443).</p> <p>“In the present case, the actions of others for which the Accused has been found to bear criminal responsibility either individually or as a superior may be described as follows: ...</p> <p>(ii) These non-Serb civilian detainees ... were exposed to the freezing temperatures of winter 1992, and they were fed starvation rations which led the detainees to suffer considerable weight loss ranging from 20 to 40 kilograms. Many of the detainees were denied access to medical care which was available, and those requiring emergency medical attention were not handled with proper care” (para. 523).</p> <p>Paragraphs 440 and 552(ii) details the starvation rations and consequential severe weight loss.</p>
	<p>Prosecutor v. Milorad Krnojelac, Case No.: IT-97-25-A, Appeal</p>	<p>Article 3 ICTY – Cruel Treatment as a violation of laws or customs of war; Article</p>	<p>“The Appeals Chamber takes the view that the Prosecution did not need to prove that Krnojelac was responsible for creating the living conditions imposed on the non-Serb detainees in order to establish his liability as an aider and abettor to the principal offenders</p>

	<p>Judgment, 17 September 2003 (in the context of detainees)</p>	<p>5 ICTY – Inhumane Acts as CAH; Article 5 ICTY – Persecution as CAH</p>	<p>who established and maintained those conditions. It was enough that Krnojelac consciously and significantly contributed to the maintenance of the living conditions” (para. 43).</p> <p>Extra Work to prevent Starvation deemed Forced Labour (setting aside the finding of TJ) “The Appeals Chamber notes that the living conditions at the KP Dom were clearly appalling. Of the facts set out above, some are particularly significant and should be emphasised. The Trial Chamber concluded that, at the KP Dom, there was a deliberate policy to feed the non-Serb detainees barely enough for their survival. All non-Serb detainees suffered considerable weight loss ranging from 20 to 40 kilograms during their detention at the KP Dom. Moreover, non-Serb detainees were locked up in their rooms for most of the day, being allowed out only to go to the canteen and back. Some, however, were taken out to work knowing that they would receive additional and much needed food if they did (...).” (para. 194).</p>
	<p>Prosecutor v. Radovan Karadžić, Case No.: MICT-13-55-A, Appeal Judgment, 20 March 2019</p>	<p>Article 4 ICTY Statute - Genocide (Srebrenica JCE)</p>	<p>“The Trial Chamber noted that following the issuance of Directive 7, humanitarian aid deliveries fell considerably, the conditions in Srebrenica deteriorated to "disastrous levels", and by the end of June 1995, some residents had died of starvation. According to the Trial Chamber, the restriction of access to Srebrenica, which was implemented by Mladic, allowed Karadzic to maintain control over goods and personnel entering Srebrenica during the period leading to its take-over. The Trial Chamber concluded, partly based on the considerations, that, by the time Directive 7 was issued, Karadzic and Mladic had devised a long-term strategy aimed at the eventual forcible removal of the Bosnian Muslims from Srebrenica through, inter alia, the deliberate restriction of humanitarian aid, and that Karadzic shared the common purpose of and significantly contributed to the Srebrenica JCE.” (para. 565)</p> <p>The Appeals Chamber found that Karadzic has failed to demonstrate that the Trial Chamber erred in finding that Karadzic implemented Directive 7 by restricting access to humanitarian aid in Srebrenica. (para. 573)</p>

International Criminal Court (ICC)	<p>Prosecutor v. Omar Hassan Ahmad Al-Bashir, Case No.: ICC-02/05-01/09, Second Decision on the Arrest Warrant (4 March 2009 and 12 July 2010)</p>	<ul style="list-style-type: none"> - Genocide - Crimes against humanity <p>Clear links to starvation but not pleaded as such</p>	<p>The Prosecution alleges that methods of destruction other than direct killings and causing of serious bodily or mental harm were an integral and prominent part of Al Bashir's genocidal plan. These methods of destruction included: (i) subjecting the group to destruction of their means of survival in their homeland; (ii) systematic displacement from their homes into inhospitable terrain where some died as a result of thirst, starvation and disease; (iii) usurpation of the land; and (iv) denial and hindrance of medical and other humanitarian assistance needed to sustain life in IDP camps (para. 34).</p> <p>In the view of the foregoing, the Chamber finds that there are reasonable grounds to believe that the elements of the crime of genocide by deliberately inflicting on members of the target group conditions of life calculated to bring about the group's physical destruction, as provided for in article 6(c) of the Statute, are fulfilled (para. 39).</p>
	<p><i>The Prosecutor v. Patrice-Edouard Ngaïssona</i> Situation: Situation in the Central African Republic II Public Redacted Version of "Warrant of</p>	<ul style="list-style-type: none"> - Crimes Against Humanity - War crime of displacement of the civilian population 	<p>"As of 6 December 2013, the Anti-Balaka group began looting and destroying Muslim houses and shops, taking away iron sheets, windows and bricks and setting the straw houses on fire. (pp. 15- 16).</p> <p>"They [Muslim groups] were subjected to life threatening living conditions, with little access to food and healthcare. Between April 2014 and April 2015, over 42 people, many of them children, died of severe malnutrition and respiratory and other diseases. In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic</p>

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attack against the civilian population, namely murder (article 7(1)(a) of the Statute), extermination (article 7(1)(b) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute)'. (pp. 21-22)

“Until at least September 2014, the Muslims suffered from limited access to basic health care and food shortages as the Anti-Balaka attacked NGOs providing aid, threatened to kill non-Muslims for selling food to Muslims, and killed people leaving the enclave in search of food. In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against personnel, installations, material, units or vehicles involved in a humanitarian assistance (article 8(2)(e)(iii) of the Statute) and displacement of the civilian population (article 8(2)(e)(viii) of the Statute).” (pp. 27-28).

Anti-Balaka group blocked the gates trapping the persons inside and attacked persons trying to leave. The persons [REDACTED] lived in appalling conditions and were dependent on NGOs for food, clothing and medical care. The enclave [REDACTED] remained in place for at least two years. (p. 30)

“Several hundred Muslims took refuge inside the Catholic Mission where they lived without adequate sanitary facilities, access to food, and any possibility to leave the enclave without risking their lives. By the end of June 2014 until well into 2015, over 300 Muslims were still living at the Catholic Mission. (p. 32)

	<p><u>The Prosecutor v. Bosco Ntaganda, Situation: Situation in the Democratic Republic of Congo, Judgment</u></p>	<p>- War crime of pillage</p>	<p>“If recruits did not obey orders, they were beaten, sometimes very severely. Other forms of punishment included [...] deprivation of food.” (para 377).</p> <p>During the ratisage operation, [...] The UPC/FPLC soldiers also looted medical equipment from the Mongbwalu hospital. (para. 514)</p> <p>...the Chamber is satisfied that the looted items – such as the harvest, the taking of which affected their livelihood and availability of food until new crops would had grown and could be harvested – also played an important role in their day-to-day lives (para. 1044).</p> <p>While some chose to stay, many persons who were present in the town as the assault unfolded fled Mongbwalu to the bush and to other places. Some fled to Sayo before Sayo was attacked. Some fled to Kilo. Some of those who fled stayed in makeshift shelters or in abandoned houses; they had no money and insufficient food and water, and no access to medical care (para. 497, 996).</p> <p>The Lendu people accepted the invitation to the ‘pacification meeting’ as living in the bush without access to food, clothes, and medicine was difficult to bear for those who had been displaced (para 592)</p>
	<p>- War Crime of attacking civilians and war crime of forcible displacement of population</p>	<p>The UPC/FPLC’s conduct during and in the aftermath of the takeover of Lipri, Kobu, and Bambu had the effect of forcibly displacing part of the civilian population of these villages. Some of the inhabitants of Tsili, a village near Lipri, were also forcibly displaced. Some went to the bush and the nearby hills while some went to or in the direction of Gutsi, 2857 Jitchu, and Buli. Some of those who fled had to endure harsh conditions, living with limited shelter and food (para. 1002).</p> <p>Further, the Chamber found that, in the context of the Second Operation: during the UPC/FPLC control of the area, UPC/FPLC soldiers burned down houses in Lipri and Tsili; - the UPC/FPLC burned down some of the houses in or around Kobu; - the day after the ‘pacification meeting’, the UPC/FPLC burned down houses in Jitchu; - UPC/FPLC soldiers burned down houses in Buli; and - sometime after the ‘pacification meeting’, the UPC/FPLC burned down houses in or around Sangi (para. 1157).</p>	

<p>Iraqi Supreme Criminal Court, Iraq</p>	<p>The Public Prosecutor in the High Iraqi Court et al. v. Saddam Hussein Al Majeed et al., Case No. 1/C/First 2005, Judgement Decision, 5 November 2006</p>	<p>The razing / destruction of the orchards constitute inhumane acts that have a similar character to the other crimes against humanity stated upon in article 12/1st of the Court's Law</p>	<p>“These razing operations of those orchards are considered inhumane and a crime against humanity because it caused great suffering due to the moral and financial damages that the victims in Dujail who owned those orchards had to undergo since it was their sole source of income and since money is dear to people like their sons and daughters and therefore writers of constitutions all over the world permit legal self-defense for people’s lives and money (see for example article 42 of the Iraqi penal law number 111 for the year 1969) and before that Almighty Allah says in the Holy Qur’an “The wealth and sons are an adornment of the life” (Surat Al-Kahf: 46). So when the fruitful trees some of which were tens of years old were cut it felt as if those who committed the razing operations or supervised them or ordered them as if they have murdered those victims whether the owners of their orchards or their sons and daughters. They have taken from them the things that meant for them the most, their lives and their children’s lives and their orchards in addition to taking their honour and freedom and dignity. <u>Therefore we can safely say that razing the orchards is one of the other inhumane acts of a similar character intentionally causing great suffering, or serious injury to the body or to the mental or physical health</u> stated upon in article 12/1st of the Court's Law” (pp. 45-46).</p>
<p>District Court in Zadar, Croatia</p>	<p>Public Prosecutor v. Momčilo Perišić et al., Case No. K. 74/96, Verdict, 24 April 1997</p>	<p>- Crimes against humanity - War Crimes</p>	<p>The court convicted a number of defendants (in absentia) (Momčilo Perišić (a colonel in the Yugoslav National Army who was also prosecuted by the International Criminal Tribunal for the former Yugoslavia (ICTY) for other crimes) and 18 others) for crimes committed in the siege of the city of Zadar under the Croatian Penal Code, which lists starvation of civilians as a punishable war crime.</p>
<p>Supreme Court of India, India</p>	<p>People's Union for Civil Liberties v. Union of India & Ors, Case No. 196 of 2001, Civil Original Jurisdiction, Writ Petition (Civil), 2007</p>	<p>- Violation of the right to food</p>	<p>In 2003, the court found the right to life was imperilled due to the failure of to implement the Integrating Child Development Scheme (in short the ‘ICDS’). The Court noted that paradox of food being available in granaries but that <u>the poor were starving</u> and it refused to hear arguments concerning the non-availability of resources given the severity of the situation. The court ordered that: the Famine Code be implemented for three months; grain allocation for the food for work scheme be doubled and financial support for schemes be increased; ration shop licensees must stay open and provide the grain to families below the poverty line at the set price; publicity be given to the rights of families below the poverty line to grain; (5) all individuals without means of support (older persons, widows, disabled adults) are to be granted an Antyodaya Anna Yozana ration card for</p>

			free grain; (6) and State governments should progressively implement the mid-day meal scheme in schools.
Federal High Court in Addis Ababa, Ethiopia	Ethiopia Case against Mengistu Haile Mariam	<ul style="list-style-type: none"> - Genocide - War crimes - Crimes against humanity, - Deprivation of life, - Infringement of physical integrity - <u>Forbidden methods or means or warfare</u> (lists starvation) 	<p>Between 1977 and the late 1980s, some 1.5million Ethiopians are estimated to have died, disappeared or been injured. This figure includes the period of the Red Terror, which raged between 1977and 1978, and the effects of famine, starvation, forced relocations, and collectivization programmes.¹²</p> <p>On January 11, 2007, Mengistu was sentenced to life in prison. It is, however, unlikely that this sentence will ever be carried out against Mengistu, who remains in exile. Following the Special Prosecutor’s appeal, on 26 May 2008, the Ethiopian Supreme Court followed the Prosecutor’s appeal and converted the life sentence on Mengistu and his 17 co-accused into a death sentence.</p>
Constitutional Court of Colombia, Colombia	Constitutional Court of Colombia (Constitutional Case No. C-291/07) , 25 April 2007, M.P Manuel José Cepeda Espinosa. Expediente D-6476.	<p>The plaintiff argued that the certain Articles of the Law 599 de 2000, and of the Law 522 de 1999 were unconstitutional. The Court examined international law and the Rome Statute.</p> <p>Topics discussed:</p> <ul style="list-style-type: none"> - Crimes: Looting; Taking of hostages; Attack to protected objects; Notion of “combatants” in NIACs. - Principle of distinction between combatants and 	<ul style="list-style-type: none"> - "There is nowadays a consensus in the international jurisprudence and doctrine on the fact that the vast majority of the provisions of the 1949 Geneva Conventions, especially common Article 3, have become rules of customary international law. Likewise, in relation to non-international armed conflicts, a large number of rules of Additional Protocol II have acquired such customary character, given the impact they have had on the practice of the states and the development of the conflicts of the last decades. Among others, these provisions have entered become international custom: (...); <u>the prohibition against starvation; the prohibition of attacks against the essential goods for the survival of the civilian population; (...)</u> (p. 68). - 3.4.5. <u>Prohibition to attack objects indispensable to the survival of the civilian population</u>: the fifth element constituting the principle of distinction is the prohibition of objects indispensable to the survival of the civilian population, which translates into the two specific proscriptions of starving the civilian population, and of attacking, destroying, subtracting or rendering useless the essential goods for their survival. This

		<p>civilians (when starvation is discussed) * The Court confirmed customary character of the norm that prohibits starvation.</p>	<p>is enshrined in article 14 of Additional Protocol II for internal armed conflicts. <u>This is a norm that also has customary rank, and as a basic manifestation of the principle of distinction, it also enjoys its status as <i>jus cogens</i></u> (pp. 96-97).</p>
<p>US District Court for the Eastern District of Virginia</p>	<p>Hamza et al v. Hifter (Case No. 1:2020cv01038) Filed 3 September 2020</p>	<p>Multi-million dollar damages claim alleges that Haftar is guilty of war crimes including starvation sieges (2016-2017 Benghazi siege)</p> <p>Complaint alleges: “Defendant Hifter’s unlawful siege and attacks upon the civilian neighborhoods, which resulted in the deaths of the Plaintiffs’ family members, constitute the following, but not limited to, war crimes and/or crimes against humanity: attacking civilians, attacking civilian objects, extrajudicial killing, mutilation or maiming, hostage taking, forced starvation, besieging undefended dwellings, denying quarter, desecration of the dead, and inflicting terror upon the civilian population” (Original Complaint filed 3 September 2020, para. 21)</p> <p>On 26 March 2021, Counts I-VI of Plaintiff’s Amended Complaint were dismissed,</p>	<p>First Amended Complaint for Extrajudicial Killing; Degrading Treatment; Crimes against Humanity; and War Crimes (No. 20-cv-01038 LMB-JFA, September 17, 2020)</p> <p>“Under international humanitarian law, the starvation of civilians as a method of warfare is prohibited and constitutes a war crime. All parties to a conflict should facilitate the movement of civilians, in particular to enable them to escape a zone of fighting or siege.” (para. 64)</p> <p>“In July 2016 the LNA started a siege on Ganfouda, a coastal neighborhood of Benghazi, after Defendant Hifter announced the start of Operation Dignity. The LNA, under Defendant Hifter’s command, intentionally carried out repeated air strikes against civilians and civilian objects and also restricted entry to, and departure from Ganfouda, deliberately leaving many civilians trapped in the conflict. (paras. 65-66)</p> <p>“On December 10, 2016, the LNA announced a temporary, six-hour ceasefire to allow the evacuation of civilians. Only a handful of civilians, however, were able to leave the besieged Benghazi neighborhood.” (para. 71)</p> <p>“Defendant Hifter was personally alerted about the dire situation in the neighborhood in a detailed letter sent by HRW. Defendant Hifter and his LNA blocked the roads in Ganfouda, and cut the civilian population’s access to food, water, medicine, and electricity supplies. Civilians struggled to survive on rotten food and dirty water.” (paras. 73-74)</p> <p>“Residents said they live in constant fear of air strikes and had no access to fresh food for months, no access to medical care with exception of one doctor with limited capacities, and limited drinking water. Electricity had been cut off for months, and only those residents who had a generator and fuel had access to some electricity. They said the intense fighting made them afraid to try to leave their neighborhood to get food and other necessities. They said they could not use a sea route in the coastal city, due to the LNA’s expansion of the siege to include coastal areas. The residents interviewed said they wanted to leave but have been prevented by the refusal of the LNA to allow many males</p>

		<p>while only Count VII (Torture Victim Protection Act: Extrajudicial Killing and Torture) set to go forward.</p>	<p>to leave, as well as by the fighting.” (para. 79.a)</p> <p>“In December 2016, the LNA, in response to an attempt to bring food and medicine to Ganfouda's residents by sea through a Canadian shipment organized by Plaintiff Hamza, responded that they would bomb any humanitarian ship delivering aid to the civilian population.” (para. 80)</p> <p>Specific allegations raised were:</p> <p>“Since the Fall of 2014, Defendant Hifter has waged a campaign of siege warfare, involving indiscriminate bombing, against Benghazi neighborhoods he sought to bring under his control. This involved indiscriminate bombing of residential neighborhoods and the cutting off of basic food, water, and electricity supplies.” (para 112)</p> <p>“Plaintiff Hamza's family were subjected to illegal siege warfare, starvation, and repeated attacks by LNA soldiers in Benghazi who prevented their safe evacuation.” (para. 116)</p> <p>On August 31, 2016, the GNA sought the intercession of the International Committee of the Red Cross (“ICRC”) to support the evacuation of approximately 126 families in Ganfouda. Defendant Hifter still continued to direct a campaign of siege warfare on the civilians in Ganfouda and refused to allow them to evacuate as well as prevented any food, medicine, or other relief supplies to enter. (para 123)</p> <p>“The LNA's treatment of the Decedents described herein constitutes a tort committed in violation of the law of nations or a treaty of the United States under the Alien Tort Statute, 28 U.S.C. § 1350, in that it was in violation of customary international law prohibiting siege warfare on the civilian populations as reflected, expressed, defined and codified in multilateral treaties and other international instruments, international and judicial decisions and other authorities.” (para. 187)</p>
<p>Eritrea - Ethiopia Claims Commission</p>	<p>Eritrea-Ethiopia Claims Commission - Partial Award: Western Front, Aerial Bombardment and Related Claims - Eritrea's Claims 1, 3, 5, 9-13, 14, 21, 25 & 26 (19 December 2005)</p>	<p>Eritrea's Claim 26 – Unlawful Aerial Bombardment – Harsile Water Reservoir – Article 54 AP I</p>	<p>Ethiopia conducted several airstrikes on the Harsile Water Reservoir, which was a vital source of water for the civilian population and an object indispensable to the survival of the civilian population under Article 54 AP I. (paras. 98-100)</p> <p>The Parties agreed that Article 54 AP I would prohibit an attack on a water reservoir. However, Ethiopia argued that Article 54 AP I, which was formed in 1977, did not apply at the time of the attack in 1998-2000, not having acquired CIHL status at the time and that the destruction of the reservoir would have significantly limited Eritrea's ability to conduct military operations on the Eastern Front which made it a legitimate military objective under CIHL. (paras. 101-102)</p>

			<p>The commission recognised that</p> <p>“Article 54 represented a significant advance in the prior law when it was included in the Protocol in 1977, so it cannot be presumed that it had become part of customary international humanitarian law more than 20 years later. However, the Commission also note[d] the compelling humanitarian nature of that limited prohibition, as well as States’ increased emphasis on avoiding unnecessary injury and suffering by civilians resulting from armed conflict. The Commission also consider[ed] highly significant the fact that none of the 160 States that have become Parties to the Protocol has made any reservation or statement of interpretation rejecting or limiting the binding nature of that prohibition. Only two of those statements relate to the scope of the prohibition. One, by the United Kingdom, merely emphasizes what paragraph 2 of Article 54 says, i.e., that it prohibits only attacks that have the specific purpose of denying sustenance to the civilian population or the adverse Party. The other, by France, preserves a right to attack objects used solely for the sustenance of members of the armed forces.” (para. 104)</p> <p>“While the Protocol had not attained universal acceptance by the time these attacks occurred in 1999 and 2000, it had been very widely accepted. The Commission believes that, in those circumstances, a treaty provision of a compelling humanitarian nature that has not been questioned by any statements of reservation or interpretation and is not inconsistent with general State practice in the two decades since the conclusion of the treaty may reasonably be considered to have come to reflect customary international humanitarian law. Recalling the purpose of Article 54, the Commission concludes that the provisions of Article 54 that prohibit attack against drinking water installations and supplies that are indispensable to the survival of the civilian population for the specific purpose of denying them for their sustenance value to the adverse Party had become part of customary international humanitarian law by 1999 and, consequently was applicable to Ethiopia’s attacks on the Harsile reservoir in February 1999 and June 2000. Therefore, those aerial bombardments, which fortunately failed to damage the reservoir, were in violation of applicable international humanitarian law.” (para. 105)</p>
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