

# Starvation Analysis in Commissions, Inquiries and Fact-Finding Missions, Courts and Tribunals

Commission Findings			
Country/Court	Commission/Mission	Starvation Findings	Starvation Analysis
Burundi	<a href="#">Commission of Inquiry on Burundi</a> (September 2016 - October 2018)  * 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 <a href="#">2017 Report</a> :  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 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 <a href="#">2018 Report</a> :  Victims described conditions of detention that may constitute <u>inhumane or degrading treatment</u> , including <u>lack of food, water</u> and medical care (para. 44). 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>Central African Republic</p>	<p><a href="#">International Commission of Inquiry on the Central African Republic</a> (5 December 2013 to December 2014)</p> <p>*The Commission was appointed to investigate international human rights and humanitarian laws violations in the Central African Republic since 1 January 2013.</p>	<p>Findings from the <a href="#">2014 Final Report</a> :</p> <p>The Commission interviewed detainees from the 'Guantanamo' illegal detention facility in Bossembélé and detainees <u>who described conditions of near starvation</u> (paras. 122, 248, 265, 499).</p> <p>Muslims who could not escape were forced to stay in enclaves under the protection of international forces. Surrounded by the anti-balaka, <u>they were deliberately prevented from accessing food, water and medical care</u>, thus reducing their living conditions to a deplorable state (paras. 49, 327).</p> <p>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 <u>unimpeded passage of humanitarian relief for civilians in need</u> (para. 233).</p> <p>As a result of the conflict between the anti-balaka and the Séléka, <u>there was limited access to food, water</u></p>	<p>The Commission recommended plans be put in place urgently for a fully-fledged <u>hybrid court</u> to take over from the Urgent Temporary Measures (UTM) measures that are, by definition, required to be only temporary (para. 76).</p> <p>In April 2014 the National Transitional Council adopted <a href="#">Organic Law No. 15-003</a> 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.</p> <p>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 <u>also constitute a war crime as long as they are afforded the protection of international humanitarian law as civilians or civilian objects.</u> (para. 600).</p>

		<p><u>and health services for populations living in enclaves</u> (paras. 518, 523).</p> <p>Humanitarian organizations bringing food to Muslims were threatened and attacked (paras. 591, 592).</p>	<p>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.</p> <p>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>
<p>Democratic People's Republic of Korea</p>	<p><a href="#">Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea</a> (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 <a href="#">2014 Report</a> 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 (<a href="#">Report of the detailed findings</a>, 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>

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)

		<p>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)</p> <p><u>“The State’s monopolization of access to food has been used as an important means to enforce political loyalty.</u> 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).</p> <p>For more detailed information see the <a href="#">Report of the detailed findings of the Commission of Inquiry on human rights in the Democratic People’s Republic of Korea (2014)</a>.</p>	
<p>The Democratic Republic of Congo</p>	<p><a href="#">International Team of Experts on the Kasai region of the Democratic Republic of the Congo</a> (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 <a href="#">2018 Detailed Report (in French)</a>:</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 <a href="#">Report of the Team of international experts on the situation in the Kasai regions (in French) (2018)</a>.</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>Eritrea</p>	<p><a href="#">Commission of Inquiry on Human Rights in Eritrea</a> (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 <a href="#">2015 Report</a> :</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 <a href="#">Report of the detailed findings of the</a></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><a href="#">Detailed findings of the commission of inquiry on human rights in Eritrea (2016)</a></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><a href="#">The Commission Of Experts on Former Yugoslavia</a></p> <p>*Established Pursuant To Security Council Resolution 780 (1992)</p>	<p><a href="#">Final report of the commission of experts (Fenrick Report) of 27 May 1994:</a></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><a href="#">The United Nations Fact-Finding Mission on the Gaza Conflict</a> (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><a href="#">Human Rights in Palestine and Other Occupied Arab Territories (2009)</a> 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 and means of subsistence</u> (paras. 50, 51, 1929).</p> <p>Gazans detained during the Israeli military operations were detained in <u>degrading conditions, deprived of food, water and access to sanitary facilities</u> (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).<sup>1</sup></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 <a href="#">2010 Report</a>, 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>

<sup>11</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup> The Mission takes the view that a

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

<sup>3</sup> Ibid., para. 102.

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

	<p><a href="#">The United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict</a> (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 <a href="#">2015 Report</a> 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><a href="#">Famine Inquiry Commission</a> 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 <a href="#">Report on Bengal</a> came to three conclusions about the causes of the Bengal famine:</p> <ol style="list-style-type: none"> <li>1) A serious shortage in the total supply of rice available for consumption in Bengal in 1943;</li> <li>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;</li> <li>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).</li> </ol>	<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.<sup>5</sup></p>
Lebanon	<p><u>Commission of Inquiry on Lebanon</u> (11 August 2006 to November 2006)</p>	<p>In its <a href="#">2006 Report</a> 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>

<sup>5</sup> DE 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) See also paras. 138, 171-187, 272).</p>	
Libya	<p><u><a href="#">International Commission of Inquiry on Libya</a></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 <u><a href="#">2012 Report</a></u>, the Commission of inquiry discussed the issue of starvation in the context of a <u><a href="#">siege by stating that</a></u> “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><a href="#">OHCHR Investigation on Libya (HC Fact Finding Mission with UNSMIL)</a></u> (March 2015 – March 2016)</p>	<p>The OHCHR investigation denounced in its <u><a href="#">February 2016 Report</a></u> 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>Myanmar</p>	<p><a href="#">Independent international fact-finding mission on Myanmar</a> (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 <a href="#">2018 Report</a>:</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).</p> <p>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>” <u>The rate of chronic malnutrition is well above the national average. Outbreaks of preventable diseases are reported.</u> (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>

		<p><u>State armed groups from access to food and finances, among other things (para. 76).</u></p> <p>For more detailed information see the <a href="#">Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar (2018)</a></p>	
<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 <a href="#">January 2004 Report</a> 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), as the Sudanese justice system is unable and unwilling to address the situation in Darfur</u> (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>

		<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.<sup>6</sup> Two arrest warrants have been issued against Sudan's President Omar Al Bashir who is charged by the ICC for the crime of genocide.<sup>7</sup> Al Bashir is currently under arrest after having stepped down in response to nationwide protests.<sup>8</sup></p>
<p>South Sudan</p>	<p><a href="#">United Nations Commission on Human Rights in South Sudan</a> (March 2016 – March 2019)</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 <a href="#">2017 Report</a> denounced the continued restrictions on access of aid agencies 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 <a href="#">December 2017</a>, the Commission denounced that "crops are destroyed <u>leaving villages starving</u>" and that aid workers were being restricted, attacked and felt insecure.<sup>9</sup></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, to investigate and conduct criminal prosecutions;</u> 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 <a href="#">2017 Report</a>, <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>

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

<sup>7</sup> Ibid.

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

<sup>9</sup> 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 <a href="#">2018 report</a> 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 <a href="#">2019 report</a> 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>Sri Lanka</p>	<p><a href="#">OHCHR Investigation on Sri Lanka</a> (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 <a href="#">2015 Report</a> 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><a href="#">The Independent International Commission of Inquiry on the Syrian Arab Republic</a> (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><sup>10</sup></p>	<p>In its <a href="#">September 2017 Report</a>, 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 <a href="#">Sieges as a weapon of war: Encircle, starve, surrender, evacuate</a>, 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>	

<sup>10</sup> UN Human Rights Council. (2011). Resolution S-17/1. Available at: [www.ohchr.org/Documents/HRBodies/HRCouncil/ ColSyria/ResS17\\_1.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/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 <a href="#">August 2018 report</a> 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>The report proposes a set of recommendation aimed at addressing the issues affecting displaced civilian population.</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).  <u>Initial 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>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 <a href="#">January 2019 report</a> 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>	
Yemen	<p><a href="#">Group of Eminent Experts on Yemen</a> (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 <a href="#">August 2018 report</a> 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>

“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)

## Tribunals and Court Jurisprudence

Court / Tribunal	Case	Offence Charged / Discussed	Findings
The International Military Tribunal	<a href="#">The International Military Tribunal (Nuremberg) 1945-1946</a>	<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"> <li>- 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)</li> <li>- <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"> <li>- Starvation of thousands of Soviet citizens in Novgorod and Minsk (p.49)</li> <li>- Starvation of American prisoners (p.53)</li> <li>- Extermination of PoWs in Orel through starvation, shooting, exposure and poisoning (p.54)</li> </ul> </li> <li>- 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.”</li> </ul> <p><u>2. Judgement:</u></p> <ul style="list-style-type: none"> <li>- 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).</li> <li>- “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)</li> </ul>

			<ul style="list-style-type: none"> <li>- “In the camp of Auschwitz alone [from 1 May 1940 to 1 December 1943] ...500,000 died from disease and starvation” (p. 251).</li> <li>- 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).</li> <li>- 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).</li> <li>- 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).</li> </ul>
<p>The American Military Tribunal [Tribunal V]</p>	<p>United States of America, vs. Wilhelm von Leeb, et al., Case No. 12, <a href="#">Judgement</a>, 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"> <li>- “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).</li> <li>- “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).</li> <li>- “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)</li> <li>- “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)</li> </ul>
<p>Jerusalem District Court</p>	<p>Attorney General of the Government of Israel v Adolf Eichmann, Case No. 40/61, <a href="#">Trial</a></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.” (<a href="#">para.</a> 244(5))</p>

	<a href="#">Judgement</a> , 11 December 1961	Starvation deportation of civilian population persecution on national, racial, religious or political grounds. (para. 200)	
International Criminal Tribunal for Rwanda (ICTR)	Prosecutor v. Clément Kayishema & Obed Ruzindana, Case No. ICTR-95-1-I, <a href="#">Judgment</a> , 21 May 1999	Genocide Murder Extermination	<ul style="list-style-type: none"> <li>- <u>The Chamber acknowledges the Prosecution argument that Tutsis seeking refuge at the four crime sites were deprived of food</u>, 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).</li> <li>- 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).</li> </ul>
	Prosecutor v. Athanase Seromba, ICTR-2001-66-I, <a href="#">Judgment</a> , 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)	<a href="#">Case of IM Chaem, Considerations on the International Co-Prosecutor's Appeal of Closing Order (Reasons), Case No. 004/1/07-09-</a>	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).

	<a href="#">2009/ECCC OCIJ (PTC50) (28 June 2018)</a>	<p>Deprivation of food and water constituting genocide Deprivation of food and water constituting extermination</p>	
	<a href="#">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)</a>	<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"> <li>- 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).</li> <li>- 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).</li> <li>- 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).</li> </ul>
	<a href="#">Case 002/01 Trial Judgement, Doc. E313, para. 737 (7 August 2014) (Trial Chamber, Extraordinary Chambers in the Courts of Cambodia)</a>	<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"> <li>- 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 &amp; Zupljanin, Blagojevic, Jokic and Sikirica trials.</li> </ul> <p>Deprivation of food and water constituting genocide:</p> <ul style="list-style-type: none"> <li>- 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)</li> </ul> <p>Deprivation of food and water constituting extermination:</p> <ul style="list-style-type: none"> <li>- 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.</li> </ul>

			<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><a href="#">Case of Kaing Guek Eav alias Duch, Judgment, Case No. 001/18-07-2007/ECCC/TC, ECCC (26 July 2010).</a></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"> <li>- 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).</li> </ul> <p>Deprivation of food and water constituting other inhumane acts:</p> <ul style="list-style-type: none"> <li>- 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)</li> </ul>
<p>International Criminal Tribunal for the Former Yugoslavia (ICTY)</p>	<p>Prosecutor v. Zejnil Delalić et al., Case No.: IT-96-21-T, <a href="#">Trial Judgement</a>, 16 November 1998 (<a href="#">In the context of detainees</a>)</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"> <li>- 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).</li> </ul>

	<p>Prosecutor v. Radislav Krstić, Case No.: IT-98-33-T, <a href="#">Trial Judgement</a>, 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"> <li>- 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></li> <li>- Bosnian Serb forces had <u>destroyed the town's water supplies</u> in the take-over of Srebrenica (para.15).</li> <li>- 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).</li> </ul> <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, <a href="#">Trial Chamber Judgement</a>, 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, <a href="#">Sentencing</a></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><a href="#">Judgement</a>, December 2003 (<a href="#">In the context of detainees</a>)</p>		
	<p>Prosecutor v. Zdravko Tolimir, Case No.: IT-05-88/2-T, <a href="#">Trial Judgement</a>, 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, <a href="#">Trial Judgement</a>, 29 May 2013 (<a href="#">In the context of detainees</a>)</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 <a href="#">Limaj et al. Trial Judgment</a>, 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, <a href="#">Appeal Judgement</a>, 11 July 2013 (<a href="#">In the context of detainees</a>)</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. Stanislav Galić, Case No. IT-98-29-T, <a href="#">Trial Judgement</a>, 5 December 2003 (in</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 context of the siege of Sarajevo)</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 Galič occupied the position of VRS Corps commander, and repeatedly breached his public duty from this very senior position, is an aggravating factor” (para. 765).<sup>11</sup></p> <p>See further footnote 33, that details witness evidence of starvation considered by the trial chamber.</p> <p><a href="#">Separate and Partially Dissenting Opinion of Judge Nieto-Navia</a></p> <p>“5. 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 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</p>
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<sup>11</sup> 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>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>
	<p>Prosecutor v. Dragomir Milošević, Case No.: IT-98-29/1-T, <a href="#">Trial Judgement</a>, 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). “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. Duško Tadić, Case No.: IT-94-1-T, <a href="#">Trial</a></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><a href="#">Judgment</a>, 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, <a href="#">Trial Judgment</a>, 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, <a href="#">Trial</a></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><a href="#">Judgment</a>, 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, <a href="#">Appeal</a></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><a href="#">Judgment</a>, 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>International Criminal Court (ICC)</p>	<p>Prosecutor v. Omar Hassan Ahmad Al-Bashir, Case No.: ICC-02/05-01/09, Second <a href="#">Decision</a> on the Arrest Warrant (4 March 2009 and 12 July 2010)</p>	<ul style="list-style-type: none"> <li>- Genocide</li> <li>- Crimes against humanity</li> </ul> <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 <a href="#">Public Redacted Version of “Warrant of</a></p>	<ul style="list-style-type: none"> <li>- Crimes Against Humanity</li> <li>- War crime of displacement of the civilian population</li> </ul>	<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>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, <a href="#">Judgement Decision</a>, 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, <a href="#">Verdict</a>, 24 April 1997</p>	<ul style="list-style-type: none"> <li>- Crimes against humanity</li> <li>- War Crimes</li> </ul>	<p>The court convicted a number of defendants (in absentia) (Momčilo Perišić (a colonel in the Yugoslav National Army who was also <a href="#">prosecuted</a> 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 <a href="#">Croatian Penal Code</a>, 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 &amp; Ors, Case No. 196 of 2001, <a href="#">Civil Original Jurisdiction, Writ Petition (Civil)</a>, 2007</p>	<ul style="list-style-type: none"> <li>- Violation of the right to food</li> </ul>	<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>

			<p>free grain; (6) and State governments should progressively implement the mid-day meal scheme in schools.</p>
<p>Federal High Court in Addis Ababa, Ethiopia</p>	<p><a href="#">Ethiopia Case against Mengistu Haile Mariam</a></p>	<ul style="list-style-type: none"> <li>- Genocide</li> <li>- War crimes</li> <li>- Crimes against humanity,</li> <li>- Deprivation of life,</li> <li>- Infringement of physical integrity</li> <li>- <u>Forbidden methods or means or warfare</u> (lists starvation)</li> </ul>	<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.<sup>12</sup></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>
<p>Constitutional Court of Colombia, Colombia</p>	<p><a href="#">Constitutional Court of Colombia (Constitutional Case No. C-291/07)</a>, 25 April 2007, M.P Manuel José Cepeda Espinosa. Expediente D-6476.</p>	<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"> <li>- Crimes: Looting; Taking of hostages; Attack to protected objects; Notion of “combatants” in NIACs.</li> <li>- Principle of distinction between combatants and</li> </ul>	<ul style="list-style-type: none"> <li>- "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).</li> <li>- 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</li> </ul>

<sup>12</sup> The Mengistu Genocide Trial in Ethiopia. Available from: [https://www.researchgate.net/publication/228223965\\_The\\_Mengistu\\_Genocide\\_Trial\\_in\\_Ethiopia](https://www.researchgate.net/publication/228223965_The_Mengistu_Genocide_Trial_in_Ethiopia) [accessed Feb 13 2018].

		<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> (pp. 96-97).</u></p>
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