

STARVING CIVILIANS IN YEMEN:
COLLECTIVE FAILURE, COLLECTIVE
RESPONSIBILITY

TWO REPORTS ON STARVATION IN
YEMEN



Global
Rights
Compliance

Last week the latest report from the [Group of Eminent International and Regional Experts \(GEE\)](#), appointed by the Human Rights Council to monitor and report on the situation of human rights in Yemen was released, followed by Global Rights Compliance and the World Peace Foundation's (WPF) final paper in its [Starvation Policy Series on Yemen](#), co-authored by the expert analyst Sama'a Al-Hamdani. Global Rights Compliance (GRC) has supported the GEE's mandate since 2018, filing [submissions](#) and supplying advice to its investigatory efforts through GRC's project [Accountability for Mass Starvation: Testing the Limits of the Law](#).

The GEE's latest report echoes GRC's findings, recognising starvation and the resulting pockets of famine and acute food-insecurity as being caused not only by the scarcity of food availability and supply but also by the lack of access to food (i.e. real demand and people's ability to purchase food). The GEE analysed starvation through international humanitarian law (IHL), international criminal law (ICL) and also through the human rights framework. It identified the various modes of perpetration including sieges (for instance, as used by the Houthi-Saleh fighters, who may have used a siege as a form of collective punishment on the civilian population residing inside Ta'izz, for their perceived support of the Popular Resistance and Government-affiliated groups); the arbitrary denial of access of humanitarian aid to civilians in need (for example, the blockade of Yemen's borders by the Saudi-supported Government, preventing the entry of any humanitarian relief); as well as by attacking objects indispensable to the survival of the population, such as the impediment of the transportation of food, water, medicine, diesel and petrol in the Lahij province, by Houthi-Saleh fighters, and the aerial campaign targeting agricultural areas and food and water stores.

The GEE concluded that all parties to the conflict in Yemen have used tactics and conducted attacks impacting objects indispensable to survival of the civilian population, echoing the language of the war crime prohibition found under the International Criminal Court's Rome Statute.

Similar to GRC's Yemen Policy Paper the GEE's 2019 report considers in some detail economic aspects of the conflict and concludes, as we do, that the economic situation is one of the main drivers of the humanitarian crisis in Yemen. The use of the Yemen Central Bank to effect the non-payment of salaries in Houthi-controlled areas, to restrict the giving of lines of credit for imports (a major blow to Yemen's import-driven economy), and the moving of the Central bank to Aden in 2016 considerably weakened an already precarious economy.

As argued in GRC and WPF's Yemen Paper, the single most important driver of famine, namely the economic measures, some of them targeted (embargoes) and others generalized (expenditure cuts, salary suspensions), fall outside the bounds of what could be prosecuted under ICL. The economic policies pursued by the Coalition and the Recognised Government of Yemen may violate the right to food (and other social and economic rights) but these

violations do not count as international crimes, and the prospects for pursuing accountability along this route are slim. However,

these economic drivers will be relevant to a criminal case, insofar as (a) they may demonstrate that the perpetrators were deliberately pursuing a strategy of starvation, and (b) that the risks of military attacks on objects indispensable for the survival of the population posed a heightened danger of causing starvation.

The two reports differ in parts, including in the construction and understanding of the term ‘method of warfare’ (in relation to the use of starvation as a method of warfare) and what impact this may have in terms of identifying prohibited conduct. The GEE have adopted the more traditional approach, that method of warfare means as “a strategy to defeat the other party to the conflict” (para 741 of the Report), whereas, GRC’s report adopts an emerging and persuasive view that term method of warfare should be interpreted as an important delineator between starvation and active hostilities, rather than a conduct which is impacting only the opposing party, aligning the crime with the fundamental principal of IHL ‘that civilians shall be spared and protected from the effect of hostilities’.

The GEE’s report also deftly deals with the complex issue of object and motive in acts directed against objects indispensable for the population (at para 760), underscoring the distinction that will be critical when assessing violations of International Humanitarian Law and individual criminal responsibility. For a more detailed analysis of how a prosecution would likely assess individual criminal responsibility see GRC’s Legal Policy Paper on Methods of Prosecution [here](#).

The 2019 GEE reports go beyond the previous 2018 report and applies more forensic rigor to the drivers of the conflict and the resulting humanitarian crisis in Yemen.

It is one of the few investigative reports of the UN fact-finding missions to place starvation crimes at the core of its findings.

The GEE’s legal conclusions are relatively clear in relation to starvation and the associated annex of likely perpetrators are named and expanded upon from 2018. Notwithstanding that, the accountability options for Yemeni’s remain extremely limited and despite the important efforts of the GEE and other investigative bodies such as the UNSC Panel of Experts on Yemen, no stand-alone mechanism has been established in relation to Yemen and the political will for an ad-hoc tribunal complex. The various options for redress are outlined in GRC’s Policy Paper and are a central part of GRC and the WPF’s Mass Starvation Project.

The combination of economic crisis and economic tactics, has generated a major food crisis in Yemen that undoubtedly qualifies as famine, a famine which is likely to define our generation. This is overlaid with a vast array of devastating methods of warfare where starvation is used as a weapon to control, weaken, and maim Yemeni civilians, with women and children being most affected.

The Yemen war has become emblematic of the rise of starvation as a method of warfare and it is imperative that investigations into its use continue.

Accountability including prosecutions to label the criminal conduct appropriately and to ensure effective penal sanctions are imposed is vital in order to prevent and prohibit its use.