

Starvation Crimes and International Law

A New Era

By Chase Sovo

Following a period of relative post-Cold War peace, the beginning of the twenty-first century has seen a tremendous increase in the number of conflict events around the planet. As of late 2024, the Council on Foreign Relations was tracking **27 ongoing global crises**, from general political instability to interstate war. Prior to 2024, international relations scholars would have stated with certainty that the nature of conflict was also changing: Conflict between countries was on the decline and conflict within countries was increasing. This was evident by the rise of non-state actor groups in places like Syria and Yemen and the reestablishment of violent extremists like Boko Haram, Al-Shabab, and ISIS in the African Sahel.

But with Russia's 2022 invasion of Ukraine, a violent ground war in Gaza that has spilled over into regional conflict, Azerbaijan's attacks on Armenia over the contested Nagorno-Karabakh territory, and China's increasingly bellicose posturing toward Taiwan, it is clear that the world is entering into a new era of great power competition that threatens to destabilize the post-World War II global order. As theorists seek to provide the best taxonomy for this new era, there is one unescapable truth of its arrival: Hunger will continue to rise in a world in transition.

It should be no surprise that for more than a decade a mantra has sounded interminably across an overburdened and underfunded humanitarian sector: We cannot end hunger without first ending war. Indeed, most food security experts and leaders believe that Sustainable Development Goal 2, ending hunger by 2030, is wholly unachievable in a world rife with conflict. Conflict is the single largest driver of hunger today, eclipsing both climate-related extreme events and economic malaise (both of which are also on the rise). In a 2022 report, the UN World Food Programme—the world's largest humanitarian organization fighting hunger—noted that a full **80 percent** of its budget went to countries fighting themselves or others.

That hunger is an inevitable by-product of war has been true of nearly every major conflict in recorded history. For example, **by some estimates**, more people died of starvation and starvation-related disease than in active combat during World War II. **France's invasion of Russia** in the early nineteenth century during the Napoleonic Wars, meanwhile, may measure even worse in terms of civilian and combatant casualties from starvation given Russian's scorched earth retreat toward Moscow.

War destroys markets and critical infrastructure, displaces people from their homes and support networks, and prevents farmers from planting their crops. It is understood that hunger is a consequence of human violence. However, given the events of 2022-2024, a distinction must increasingly be made between hunger as an outcome of "lawful" war and the use of food as a weapon of war (here defined as the intentional starving of civilians as a method of warfare).

Simply put, the way the world is fighting is claiming far too many starvation casualties, and increasingly so. This is not to say that there has necessarily been a sudden, unprecedented use of food as a weapon of war (although that may be true). Indeed, the historical record provides numerous examples of what today would be considered gross violations of International Humanitarian and Human Rights Law with regard to the starvation of civilians as a method of warfare, perhaps most notably the Nazi blockade of Leningrad in 1941 or Stalin's subjugation of the Ukrainian people during the Holodomor in 1932. Though many of these examples fit the definition of acts of war as understood here, they occurred before the establishment of the Geneva Conventions and the war crime statutes of the International Criminal Court (ICC). What is most disturbing for humanity in this moment is that these acts—now seen as criminal violations—continue to occur despite widespread agreement regarding their illegality and status as war crimes. It is for this reason that Alex de Wall, executive director of the World Peace Foundation at the Fletcher School of Law and Diplomacy at Tufts University, **called** starvation crimes "a stagnant backwater of international criminal law" in 2019.

The Crime of Starvation

Food security is protected by both positive and negative rights—that is, the right to something (positive) or the right to be free from something (negative). The "right to food," now popularly used, technically refers to Article 11 (see Figure 1) of the International Covenant on Economic, Social, and Cultural Rights (**ICESCR**), one of several binding treaties that give legal force to the principles outlined in the 1948 **Universal Declaration of Human Rights**. The ICESCR (and General Comment 12, adopted by the Committee on Economic, Social and Cultural Rights) provides a positive right to an adequate standard of living, including the progressive realization (a recognition that these rights should be pursued, even if not yet attainable) by states to provide "food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture" (see Figure 2). The positive right to food (i.e., what states must do) exists predominantly in the realm of international human rights law (IHRL).¹

¹ While the United States played a central role in crafting the 1948 Universal Declaration of Human Rights, it has not ratified the ICESCR. The covenant was signed by President Jimmy Carter in 1977, but no action was taken by the Senate to "advise and consent" on its ratification. Opposition to ratification lies in the belief among many U.S. lawmakers that economic, social, and cultural rights are desirable but should not be legally binding on the United States, or any government. Ratification, opponents believe, would require the adoption of "socialist" policies, including universal health care.

Figure 1: 1976 International Covenant on Economic, Social, and Cultural Rights, Article 11

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Source: "International Covenant on Economic, Social and Cultural Rights," Office of the High Commissioner for Human Rights (OHCHR), adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI), December 16, 1966, <https://www.ohchr.org/sites/default/files/cescr.pdf>.

Figure 2: "The Right to Adequate Food," 1999 Committee on Economic, Social, and Cultural Rights, General Comment No. 12: Art.11, Section 8

8. The Committee considers that the core content of the right to adequate food implies:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;

The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

Source: "CESCR General Comment No. 12: The Right to Adequate Food (Art. 11)," OHCHR, adopted at the 20th Session of the Committee on Economic, Social and Cultural Rights, May 12, 1999, <https://www.refworld.org/legal/general/ce-scr/1999/en/87491>.

The negative right to food (i.e., what actors may not do) is enshrined in the protection of civilians in armed conflict that is a cornerstone of international humanitarian law. Various treaties and principles explicitly stress these negative rights, most notably the **Geneva Convention** (1949) and its **Additional Protocols** (1977). The Additional Protocols set out to strengthen the protection of civilians by introducing new concepts like proportionality (civilian casualties must not be excessive to expected military gain of an attack) and distinction (warring parties must distinguish between civilians and

combatants and may not deploy indiscriminate attacks). Collectively, these provisions of international humanitarian law express warring parties' "responsibility to protect."

Article 54, Paragraph 2 of Additional Protocol I (AP1) to the Geneva Conventions (see Figure 4) explicitly forbids starvation tactics—"it is prohibited to attack, destroy, remove, or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agriculture areas for the production of foodstuffs, crops, livestock." Article 8(2)(b)(xxv) of the Rome Statutes of 1998 (see Figure 3)—the international agreement creating the ICC, which is charged with, among other things, bringing charges of war crimes—similarly classifies starvation as a war crime, provided the perpetrator intended to starve civilians as a method of warfare.²

Figure 3: Rome Statutes of 1998, Article 8(2)(b)(xxv)

- (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions;

Source: International Criminal Court (ICC), *Rome Statute of the International Criminal Court* (The Hague: ICC, 2021), <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.

The Rome Statutes also prohibit "willfully impeding relief supplies" to civilians affected by war and facing undue burden, echoing Additional Protocol 1, Article 70 of the Geneva Conventions. Thus, in such cases, if rapid passage of supplies, equipment, and personnel is not provided or if consent for emergency relief is unlawfully denied, it would constitute a war crime. Further, in situations of total or widespread occupation, the occupying force is obliged to consent to humanitarian relief. In contested regions, the UN Security Council may adopt binding measures that require warring parties to consent to the provision of humanitarian relief. In all other circumstances, obligations of warring parties begin as soon as affected civilian populations are "insufficiently supplied" with essential supplies or when the parties fail to allow humanitarian intervention, either of which would constitute a violation of the prohibition of civilian starvation in international humanitarian law.

International Humanitarian Law in Practice

Generally speaking, international humanitarian law applies to the actions of parties during wartime and international human rights law applies to peacetime. However, since there is considerable overlap between the positive and negative rights to food, the ICC can technically prosecute violations of both legal frameworks (and it is generally understood that human rights law still applies in wartime). Starvation has appeared peripherally in approximately **20 cases** before international courts and the UN

² Prior to 2019, the crime of starvation could only be prosecuted under ICC statutes when committed in international armed conflict, and by implication, not in non-international armed conflict. However, in 2019, the 18th Assembly of State Parties to the Rome Statute made the unanimous decision to clarify that starvation was, indeed, a war crime in both international and non-international armed conflict, a previously glaring omission.

Table 1: Overarching Legal Instruments

	PEACETIME	WARTIME
	International Human Rights Law (IHRL) Provides "positive rights" or the right to something	International Humanitarian Law (IHL) Provides "negative rights" or the right to be free from something
FOUNDATIONS	<p>Universal Declaration of Human Rights (1948)</p> <p>Outlines fundamental rights and freedoms entitled to all individuals, promoting equality, dignity, and justice worldwide</p>	<p>Geneva Conventions (1949)</p> <p>International treaty that establishes standards for humanitarian treatment in war, protecting wounded soldiers, prisoners of war, and civilians, and setting rules to limit the brutality of armed conflicts.</p> <p>Additional Protocol 1 (1977)</p> <p>Strengthens Geneva Conventions protections for civilians and combatants in international and non-international armed conflicts, emphasizing principles like distinction and proportionality to limit harm to non-combatants.</p> <ul style="list-style-type: none"> Article 54, Paragraph 2: "it is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agriculture areas for the production of foodstuffs, crops, livestock..."
ENFORCEMENT	<p>International Covenant on Economic, Social, and Cultural Rights (1966)</p> <p>Legally binding treaty that builds on the UDHR, committing countries to upholding to fundamental economic, social, and cultural rights.</p> <ul style="list-style-type: none"> ICESCR Article 11 and General Comment 12 (1999): Specifies state parties' obligation to the progressive realization to provide "food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture." 	<p>Rome Statutes (1998)</p> <p>Establishes the International Criminal Court and empowers the ICC to prosecute individuals for the gravest international crimes, including genocide and crimes against humanity.</p> <ul style="list-style-type: none"> Article 8(2)(b)(xxv): Makes a violation of IHL the intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions
UN SECURITY COUNCIL		<p>Resolution 2417 (2018)</p> <p>Unique, thematic resolution condemning the use of food as a weapon of war, reiterating, but not expanding, International Humanitarian Law.</p> <ul style="list-style-type: none"> Requests the Secretary-General to report swiftly to the Council when the risk of conflict-induced famine and widespread food insecurity in armed conflict context occurs

Source: Author's analysis.

Security Council, but those indictments centered on charges of crimes against humanity, genocide, or other higher crimes, not starvation. The Security Council has also **issued sanctions** for the obstruction of humanitarian assistance against Al Shabab in Somalia (1992), government or military officials in the Central African Republic (2013), and the President of the Humanitarian Commission of the Bureau Regional d'Administration et Gestion de Kidal in Mali (2017). However, as of late 2024, the ICC has not convicted any individual for the specific crime of starvation.

The ICC has, however, issued its first ever arrest warrants citing Article 8(2)(b)(xxv). On May 20, 2024, ICC prosecutor Karim Khan **applied** for arrest warrants for three now deceased (or presumed so) Hamas leaders (Yahya Sinwar, Mohammed Deif, and Ismail Haniyeh) as well as both Israeli defense minister (Yoav Gallant) and the prime minister (Benjamin Netanyahu) for their roles in “causing extermination, causing starvation as a method of war, including the denial of humanitarian relief supplies, deliberately targeting civilians in conflict.” Khan alleges that “Israel has intentionally and systematically deprived the civilian population in all parts of Gaza of objects indispensable to human survival,” acts in violation of Article 8(2)(b)(xxv) of the Rome Statute (see Figure 2). Further, “This occurred through the imposition of a total siege over Gaza that involved completely closing the three border crossing points, Rafah, Kerem Shalom and Erez, from 8 October 2023 for extended periods and then by arbitrarily restricting the transfer of essential supplies—including food and medicine—through the border crossings after they were reopened.”³

On November 21, 2024 the ICC **issued** arrest warrants for Israeli prime minister Netanyahu and former defense minister Gallant, with the pretrial chamber of judges (a body required to deliberate a ICC prosecutor’s warrant application) finding “that there are reasonable grounds to believe that the lack of food, water, electricity and fuel, and specific medical supplies, created conditions of life calculated to bring about the destruction of part of the civilian population in Gaza, which resulted in the death of civilians, including children due to malnutrition and dehydration.”

Israel has vehemently denied Prosecutor Khan’s claims of intentional civilian starvation and questioning the ICC’s jurisdiction. On the same day as the applications were submitted in May 2024, U.S. president Joe Biden issued a **statement** calling the prosecutor’s actions “outrageous,” particularly the equivalence implied between the Hamas and Israeli leaders. Two weeks later, the U.S. House of Representatives, for its part, passed **H.R. 8282** seeking to impose sanctions against the ICC for actions that, according to one representative, “**cheapened the court’s reputation**.” Following the issuance of the warrants almost six months later, a spokesperson for the U.S. National Security Council, John Kirby, **reiterated** that “We [the United States] remain deeply concerned by the prosecutor’s rush to seek arrest warrants and the troubling process errors that led to this decision.”

The issue of warrants comes just a month after Secretary of State Antony Blinken and Secretary of Defense Lloyd Austin issued a **letter in October 2024** to their Israeli counterparts demanding improvements in humanitarian assistance to Gaza at the risk of the suspension of U.S. military aid to Israel. This should not be read, however, as an implicit endorsement of the ICC prosecutor’s actions. The United States did **not ultimately take action** to withhold military support to Israel as

3 The Inter-Agency Standing Committee—the UN-led coordinating body for humanitarian assistance—issued a statement on September 23, 2024, suggesting “The parties’ conduct over the last year makes a mockery of their claim to adhere to international humanitarian law and the minimum standards of humanity that it demands.”

the deadline for aid access improvements expired, citing that “Israel has taken a number of steps” to improve conditions. Ultimately, neither Israel nor the United States is a state party to the ICC and therefore both have no legal obligation to arrest and transfer suspects to the Hague for criminal proceedings. Enforcement of issued warrants would require suspects to travel to ICC member states or a non-member state party to take voluntary action to arrest and turn over the suspect.

Without a precedent in place, **commentators** have questioned whether this first issuance of arrest warrants specifically citing starvation crimes will hold up in court, for three central reasons.

First, perpetrators of starvation crimes rarely make clear their intent. With a few notable exceptions—including Hitler’s Hunger Plan (a written policy of mass starvation of Soviet civilians)—prosecuting, or even obtaining warrants for, a crime of starvation under Article 8(2)(b)(xxv) of the Rome Statute has proven elusive. In some senses, the statutes are clear and even far-reaching: the mere deprivation, after all, of objects indispensable for survival is the crime, not the harm that follows the deprivation. But the inverse is also true: starvation may well be the result of actions taken by the accused, but the accused may not be criminally responsible for starvation. The court is concerned with the conduct of the

Figure 4: Paragraphs 2 and 3 of AP1, Article 54

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.
3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:
 - a) as sustenance solely for the members of its armed forces; or
 - b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.

Source: International Committee of the Red Cross (ICRC), *Protocols Additional to the Geneva Conventions of 12 August 1949* (Geneva: ICRC, May 2010), https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/icrc_002_0321.pdf.

perpetrator, yet the ICC cannot convict on the result alone, however grotesque. The guilty hand does not necessarily mean the guilty mind, and mere recklessness resulting in starvation, in the end, does not seem to meet the material threshold for the prosecution of starvation crimes.

Second, determining whether humanitarian relief operations have been “impeded” in a way that would violate international law is the subject of debate. The movement of humanitarian personnel, for example, can be legally restricted (albeit temporarily) when belligerents are engaging in military operations of necessity. Additionally, combatants are allowed to impose administrative requirements on humanitarian agencies and cargo to ensure that they do not contain weapons or military objects, prescribe designated routes for humanitarian convoys, and even require third-party monitoring of relief operations. This is to say nothing at all of the sanctioning of regimes and counterterrorism measures that prohibit material support to certain designated groups, either by the UN Security Council or bilaterally by major humanitarian donor countries.

Finally, the question of whether foreseeable civilian starvation (Geneva Convention Article 54, Paragraph 3) resulting from attacks, sieges, and blockades of legitimate military targets is criminal remains contested. This is due, in part, to the vague language in Paragraph 3 (Figure 4), which is intended to create an exception for armies starving other armies. The paragraph, however, also seems to extend the protections offered to civilians in Paragraph 2 (Figure 4), such that “no event shall actions against these objects [i.e., the intention to starve combatants of an adverse party] be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.” Given the relative uncertainty created by the relationship between Paragraph 2 and 3 of Article 54 of API (both an exception and expansion of the responsibilities of warring parties), the question of foreseeability does not appear in the ICC’s [Elements of Crimes](#).

Given the difficulty in proving willful intent, the challenges in proving the unlawful impeding of humanitarian assistance, and the legal disagreements over whether foreseeability of incidental civilian starvation resulting from legitimate military action is even prosecutable means prosecutors of Article 8(2)(b)(xxv) face an uphill climb. Russia provides an illustrative archetype.

Caitlin Welsh, director of the CSIS Global Food and Water Security Program, has [chronicled](#) Russian targeting of Ukrainian agriculture since 2022. The attacks to warehouses, processing facilities, ports, and other critical infrastructure have exacted more than [\\$40 billion](#) in losses to Ukraine’s agricultural sector alone. Remote mining of agricultural lands has been a tactic of choice for Russia, with novel systems laying landmines en masse across vast swathes of farmland. As of 2023, Ukraine is the most mined country in the world. [Dossiers](#) calling for the issuing of starvation-crime warrants from the ICC cite as evidence the blockade of the port of Odessa (which increased food prices in many import-dependent countries), the related global food and energy price shocks that increased the price of lifesaving humanitarian assistance worldwide, and the siege of Mariupol that indiscriminately impacted civilians, to name three. Such warrants have yet to be issued. As of late 2024, the pretrial chamber of the ICC had issued warrants for Russian leaders for transferring civilians (particularly children), directing attacks against civilian infrastructure, and committing the more encompassing legal term of crimes against humanity, but not starvation crimes.

Meanwhile, in Sudan—the world’s worst humanitarian crisis in 2024—the ICC has yet to take any action against individuals, despite accusations of unlawful impediments to the delivery of humanitarian assistance. Since fighting broke out in April 2023, more than half of the country’s population—some 25 million people—have been suffering from extreme hunger. The first official confirmation worldwide of famine since 2017 was reported in the country by the Integrated Food Security Phase Classification’s Famine Review Committee, affecting almost 800,000 people. In June 2024, a panel of UN experts, including Special Rapporteur on the Right to Food Michael Fakhri, issued a [statement](#) condemning the actions of both the Sudanese Armed Forces (SAF) and the Rapid Support Forces, specifically mentioning “using food as a weapon and starving civilians.” In September 2024, [Mercy Corps](#), a prominent international NGO, lamented the SAF’s withdrawal of consent for cross-border humanitarian deliveries:

All parties to the conflict have imposed significant and often unpredictable bureaucratic and administrative impediments in the areas they control, impeding humanitarian efforts to save lives and alleviate suffering. These include complex requirements and unpredictable timelines for travel permits, interference in beneficiary selection and the obstruction of needs assessments and project implementation.

The UNSC 2417 Era

Even with Article 54 of Additional Protocol I of the Geneva Conventions and Rome Statue Article 8(2)(b)(xxv), the view that there is no unconditional—or absolute—prohibition of starvation under international humanitarian law endures. As mentioned previously, troubles remain in determining the intent or willfulness of the accused in establishing whether humanitarian assistance has or has not been unlawfully impeded and in answering the lingering question of “foreseeability.” Despite these challenges, there is growing political interest in pursuing a deeper understanding of the utility of current international law and its implementing bodies with regard to starvation crimes, perhaps driven by the unprecedented hunger crisis sweeping the globe, its obvious origins in manmade conflict, and its frightening implications for global stability. This is most evident in the unanimous adoption of UN Security Council Resolution 2417 (UNSCR2417) in May 2018. The resolution condemns the use of food

Figure 5: UNSC2417, Paragraph 4

4. *Calls* on all parties to armed conflict to comply with their obligations under international humanitarian law, and *underlines* the importance of safe and unimpeded access of humanitarian personnel to civilians in armed conflicts, calls upon all parties concerned, including neighbouring States, to cooperate fully with the United Nations Humanitarian Coordinator and United Nations agencies in providing such access, invites States and the Secretary-General to bring to its attention information regarding the unlawful denial of such access in violation of international law, where such denial may constitute a threat to international peace and security, and, in this regard, expresses its willingness to consider such information and, when necessary, to adopt appropriate steps;

Source: United Nations Security Council, *Resolution 2417*, S/RES/2417, May 24, 2018, <https://documents.un.org/doc/un-doc/gen/n18/159/35/pdf/n1815935.pdf>.

as a weapon of war and is an important political contribution to the starvation crimes debate. But, importantly, UNSC2417 does not clarify the international law outlined above, it merely reiterates it. In the end, UNSC2417 takes an arguably timid approach to criminal law and starvation. It makes no effort to take a more assertive stand toward its enforcement. It does not state that individuals using starvation as a method of war should be held criminally responsible, nor does it reference Article 8 of the Rome Statute or even the ICC. This could be explained, in part, by the skepticism of the ICC shared by several permanent members of the UN Security Council, including the United States.

Still, the fact the UN Security Council was able to act—especially unanimously—on a thematic issue like conflict-induced starvation is a welcome development. A common, fatalistic view among UN member states prior to UNSC2417 was that starvation was an inevitable outcome of warfare, one that civilians must necessarily suffer during war. UNSC2417 compellingly argues that hunger during warfare is not wholly a development issue to be left to the General Assembly or to the Economic and Social Council and their respective programs, funds, and specialized agencies. At least in part, it is conflict driven and within the UN Security Council’s purview. Traditionally, the UN Security Council has limited its decisions to individual conflicts and crises, as engaging in thematic resolutions can be perceived as undue interference in the internal affairs of sovereign states. UNSC2417, in bucking this tradition, is evidence of the seriousness with which member states see starvation crimes.

Perhaps the most tangible element of UNSC2417 comes in Paragraph 4 (see Figure 5) which states: “States and the Secretary-General [are invited] to bring [to the council’s attention] information regarding the unlawful denial of such access [of humanitarian personnel] in violation of international law, where such denial may constitute a threat to international peace and security.” The UN Security Council already has this power, but UNSC2417 represents a step toward establishing a clearer reporting mechanism—moving beyond mere symbolism. In UNSC2417, the council also suggests the expansion of peacekeeping operations to protect food security and the use of sanctions for those in violation of international humanitarian law for starvation crimes, which it has previously issued, as noted above.

The Future of Starvation Crimes

That greater enforcement of international humanitarian law would lead to the sudden elimination of starvation among civilian populations affected by war is an unrealistic expectation. War, even when conducted in compliance with international law, produces recession and widespread unemployment and increases food prices because of inflation and the general cautiousness of commercial players and their insurers. “Medieval” warfare, including siege and blockade tactics, will not disappear. Combatants will still seek to starve their enemies to weaken morale and achieve strategic advantages (this is legal, after all, provided the victim is holding a gun). That will not change.

But for far too long, the world has operated in a way that allows perpetrators of starvation crimes to operate with relative impunity. To begin to remedy these injustices, a core assumption must be flipped: Any starvation of civilians during international and non-international armed conflict should be first presumed to be a violation of international humanitarian law, not a likely exception to it.

There are three meaningful steps to be taken by the United States, in particular, to correct these assumptions and to bring greater attention to starvation crimes, expand sanctions capability, clarify

international law, and empower observers to monitor and report human rights abuses and war crimes of starvation:

- 1. Broader Application of the Global Magnitsky Act:** In July 2022, the U.S. Senate passed a resolution (S.Res 669) that, in much the same way as the UN Security Council, condemned the use of food as a weapon of war and brought new resources to bear on the problem of civilian starvation, including the [Global Magnitsky Act](#). President Obama signed the Global Magnitsky Human Rights Accountability Act in 2012. Named after a Russian accountant found dead in his Moscow jail cell, the original act imposed sanctions on a number of Russian officials for human rights abuses stemming from Sergei Magnitsky's death. In its current form (after reauthorization in the 2016 National Defense Authorization Act), the Magnitsky Act permits: (1) the State Department to impose visa bans to prevent individuals worldwide from traveling to the United States, and (2) the Department of Treasury to impose property sanctions, most notably the freezing of assets held in U.S. banks and subsidiaries of named individuals and prohibitions on U.S. "actions, dealings, or transactions" with named individuals. By 2022, some 450 individuals had been sanctioned through the Magnitsky Act, most in response to allegations of corruption. While the act is listed among the wider sanctions regime available to the United States to combat human rights abuses in its 2020 [Strategy to Prevent Conflict and Promote Stability](#) (commonly known as the "global fragility plan"), as of late 2024, the Magnitsky Act remains underleveraged as a tool for deterring starvation crimes.
- 2. Consideration of New Binding Frameworks:** In March 2024, former U.S. Agriculture secretaries Mike Espy, Dan Glickman, Mike Johanns, and others [issued a call](#) in Foreign Affairs for "a treaty banning the use of food as a weapon," including holding combatants responsible for the civilian food supply in controlled territory, requiring contributions to the UN World Food Programme by the combatants as a cost of waging war, addressing overcompliance in sanction regimes that affect the movement of food and fertilizer, and establishing joint coordination centers to ensure viable routes for the entry of both commercial and humanitarian food supplies. Treaties are infamously difficult to enact and enforce, and one might question whether there is, indeed, true need for additional legal frameworks to inform the prosecution of starvation crimes as suggested by these authors. The current limitations on trying starvation-related war crimes appear to be ones of interpretation of existing law, not absence of law. The United States should, however, seriously consider any novel framework that gives greater guidance under international humanitarian law regarding the treatment of "foreseeable" civilian starvation resulting from otherwise legitimate military action. In 2024, the burden on prosecutors to prove intent and state of mind is far too forgiving to perpetrators of starvation crimes.
- 3. Empowering Third-Party Observers to Document Crimes of Starvation:** Humanitarian organizations should not simultaneously provide lifesaving assistance and point fingers for culpability, nor should such actions be expected of them. The humanitarian principles of objectivity, impartiality, and neutrality are paramount to ensuring unimpeded access to vulnerable populations and to keeping humanitarian workers safe from retribution from warring parties. There are however, both governmental and non-governmental entities responsible for, and capable of, doing such work. On the governmental side, this includes the State Department Office of Global Criminal Justice. Internationally, the UN Human Rights Council, Human Rights

Watch, Amnesty International, and the International Committee of the Red Cross should be considered partners in this work. Moreover, in its oversight capacity, the U.S. Congress could consider hearings on starvation crimes and, in them, emphasize the effectiveness of existing reporting structures through the UN Security Council and UNSC2417. ■

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