



University of
Nottingham
UK | CHINA | MALAYSIA



WashU Law

Whitney R. Harris
World Law Institute



INTERNATIONAL LAW ASSOCIATION
AMERICAN BRANCH
EST. 1922

STARVATION

ABILA STUDY GROUP

CRIMES AGAINST HUMANITY

NOVEMBER 17, 2025



Chair: Leila Nadya Sadat

Drafting Committee: Olympia Bekou (Chair), Sara Ciucci,
Christopher Lentz, Leila Nadya Sadat

Starvation Subgroup: Tom Dannenbaum (Chair),
Diane Marie Amman, Christopher Lentz, Leila Nadya Sadat

Study Group Members

Kelly Adams	Ryan Liss
Diane Marie Amann	Megan Manion
Mina Nur Basmaci	Craig Martin
Olympia Bekou	Valerie Oosterveld
Todd Buchwald	Diane Orentlicher
Sara Ciucci	Iulia Padeanu Mellon
Tom Dannenbaum	Ishita Petkar
John Devaney	Akila Radhakrishnan
David Donat Cattin	Christine Ryan
Hannah Garry	Susana SáCouto
Jocelyn Getgen Kestenbaum	Leila Nadya Sadat
Tess Graham	Michael Scharf
Sasha Greenawalt	Patricia Viseur Sellers
Christopher “Kip” Hale	Grant Shubin
Christina Hioureas	David Sloss
Diem Huong Ho	Milena Sterio
Larry Johnson	Hannah Sweeney
Michael J. Kelly	Alyssa T. Yamamoto
Christopher Lentz	

Study Group Advisors

Richard Goldstone
William Schabas

All members and advisors contributed voluntarily
and in their personal capacities

STARVATION AS A CRIME AGAINST HUMANITY

Proposed Addition to Article 2 of the Draft Articles on the Prevention and Punishment of Crimes Against Humanity [ILC Draft]

Article 2 Definition of crimes against humanity

1. For the purpose of the present draft articles, “crimes against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

[...]

(k) starvation;

[...]

2. For the purpose of paragraph 1:

(j) “starvation” means depriving persons of objects indispensable to survival, in particular food, safe water, and the systems by which they are produced, maintained, or distributed, in a way calculated to deny those objects’ sustenance value or in a way that would be expected to cause or exacerbate acute malnutrition within the population;

Explanatory Note

1. The Draft Articles do not include starvation as an enumerated crime against humanity. The Convention provides an opportunity to close this gap in legal protection and harmonize crimes against humanity with war crimes and genocide on the issue of starvation.¹ Doing so will enhance guidance to States and individuals and lay the foundation for accountability across international criminal law.

¹ The starvation of civilians is an enumerated war crime and encompassed within an enumerated act of genocide (deliberate infliction of conditions of life calculated to destroy). Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277 (Genocide Convention) art II(c); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3, art 54; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8

2. There is an evident and urgent imperative to pursue those objectives.
 - a. In 2024, more than 294 million people across 53 countries or territories experienced what the Integrated Food Security Phase Classification scale terms “crisis,” or worse, levels of acute food insecurity.² This was almost triple the 105.2 million suffering at that level in 2016.³ Disastrously, 37 million people within the 294 million were at or beyond the emergency threshold (the final stage before catastrophe/famine).⁴
 - b. Acts of deprivation, often in armed conflict, are key drivers of this hardship. In its landmark Resolution 2417 (2018), the UN Security Council expressed that it was “[d]eeply concerned” regarding “global humanitarian needs” and “strongly condemn[ed]” both the “use of starvation of civilians as a method of warfare” and the “unlawful denial of humanitarian access”, while “[s]trongly urg[ing] States to conduct, in an independent manner, full, prompt, impartial and effective investigations” of such practices.⁵
 - c. In the most severe food crises at present, famine has been confirmed in multiple areas of Sudan,⁶ where the UN Fact-Finding Mission has described the warring parties as having weaponized food and other essentials, to devastating effect,⁷ and in the Gaza Strip,⁸ where the International Criminal Court has issued arrest warrants relating to starvation and other alleged crimes.⁹ More broadly, in recent years, the number of people suffering acute food insecurity in armed conflict has consistently

June 1977, entered into force 7 December 1978) 1125 UNTS 609, art 14; Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 (Rome Statute) arts 6(c), 8(2)(b)(xxv); Amendment to article 8 of the Rome Statute of the International Criminal Court (Intentionally using starvation of civilians) (adopted 6 December 2019, entered into force 14 October 2021), UN Doc C.N.394.2020 (inserting a new article 8(2)(e)(ix) in the Rome Statute); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)* (Merits) [2015] ICJ Rep 3, para 161; *Prosecutor v Tolimir* (Judgement) IT-05-88-2/A (8 April 2015) paras 225-226.

² Food Security Information Network and Global Network Against Food Crises, Global Report on Food Crises (2025) <<https://www.fsinplatform.org/report/global-report-food-crises-2025/#acute-food-insecurity>>.

³ Ibid.

⁴ Ibid.

⁵ UNSC Res 2417 (24 May 2018) UN Doc S/RES/2417 (2018) preamble, paras 5-6.

⁶ IPC, ‘Famine Review Committee, Sudan, December 2024: Conclusions and Recommendations’ (2024) <https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Famine_Review_Committee_Report_Sudan_Dec2024.pdf> 1, 19.

⁷ Independent International Fact-Finding Mission for the Sudan, ‘Oral Update at the 59th session of the Human Rights Council’ (17 June 2025) <<https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/ffm-sudan/17-06-2025-oral-update-hrc59-en.pdf>> 3.

⁸ IPC, ‘Famine Review Committee, Gaza Strip, August 2025: Conclusions and Recommendations’ (2025) <https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Famine_Review_Committee_Report_Gaza_Aug2025.pdf> 2, 16.

⁹ ICC, Press Release ‘Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant’ (21 November 2024) <<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>>.

exceeded the number of those killed or injured by direct physical attack by orders of magnitude.¹⁰ And yet accountability for the former remains exceedingly rare.

3. The distinctive harm associated with this practice demands specific legal recognition and prohibition. Unlike direct physical violence against persons, starvation operates gradually, with the prolonged and cumulative nature of this harm entailing a particular kind of wrong. It tears at its victims slowly, turning the imperative to overcome suffering against the human capacity to sustain social, political, and even familial commitments. By doing so, it dehumanizes its victims, with destructive and torturous effects on both individuals and their society. Moreover, the impact of starvation is worse than indiscriminate – it systematically discriminates *against* the most vulnerable members of society, including children, the elderly, and the disabled, who are the least able to battle for scarce resources and who are forced to watch their caregivers struggle with the impossible decision of how to divide food and water among them. In addition to elevated mortality, children who suffer malnutrition are likely to have worse health outcomes, suffer stunting, and experience impaired cognitive development. Meanwhile, a lack of access to adequate food or clean water elevates vulnerability to illness, including various lethal diseases.
4. While there is frequently some overlap between starvation and other enumerated crimes, those overlapping categories are insufficient to capture the unique harm of starvation or the extent of its wrongfulness. For example, although conflict remains a major driver of acute food insecurity, most of those facing “crisis” or worse levels of acute food insecurity are outside contexts of armed conflict, rendering the starvation war crime inapt.¹¹ Within crimes against humanity, extermination “includes the the intentional infliction of conditions of life, *inter alia* **the deprivation of access to food and medicine**, calculated to bring about the destruction of part of a population”.¹² However, like murder, it is limited to deprivation that kills or – at a minimum – attempts to kill.¹³ Both murder and extermination exclude the suffering of those who survive such deprivation. Torture is

¹⁰ Global Report on Food Crises (n 2). For comparison, see e.g. Siri A Rustad, ‘Conflict Trends: A Global Overview, 1946–2024’, *PRIO Paper* (2025) (including data on battle deaths); Jennifer Dathan, ‘A Decade of Explosive Violence Harm’, *Action on Armed Violence* (2021) (including data on deaths and injuries from explosive weapons).

¹¹ Global Report on Food Crises (n 2).

¹² UNGA, ‘Report of the International Law Commission (71st Session), Text of the Draft Articles on Prevention and Punishment of Crimes Against Humanity and Commentaries Thereto’ (20 August 2019) UN Doc A/74/10 [hereinafter “ILC Draft Articles”], art 2(2)(b) (emphasis added); ICC Statute (n 1), art 7(2)(b) (same). It is understood that when starvation is utilized to bring about the mass killing of part of a population, the existing crime against humanity of “extermination” covers such conduct.

¹³ See ICC, Elements of Crimes (2013), art 7(2)(b) element 1 (“The perpetrator killed [either directly or indirectly] one or more persons”).

limited by the requirement of personal custody or control,¹⁴ thus omitting broader forms of starvation such as impeding humanitarian aid to a targeted population or destroying its agricultural resources. Persecution concerns a deprivation of rights based on group identity,¹⁵ but does not apply in the absence of that discriminatory intent and does not express the distinctive suffering associated with starvation.

5. Although starvation could be charged under Draft Article 2(1)(k) as an “other inhumane act”, its inclusion as a distinct, enumerated crime would have both expressive and practical significance, insofar as it will empower agents of accountability, guide the action of the law’s addresses, and help to overcome prosecutorial or judicial hesitancy and doctrinal uncertainty in the effort to end impunity for these practices.
6. Starvation as a crime against humanity has both historical and contemporary pedigree.
 - a. Shortly after World War II, during the development of the Nuremberg Principles, UN Secretary-General Trygve Lie issued a memorandum asking rhetorically “whether deprivation of means of sustenance might not be considered as an ‘inhumane act.’”¹⁶ Israel’s 1950 Nazis and Nazi Collaborators (Punishment) Law included “starvation” as an enumerated crime against humanity.¹⁷ The provision underpinned part of Adolf Eichmann’s conviction eleven years later, which included findings on the severe caloric deprivation of those in the Warsaw and Vilna Ghettos.¹⁸
 - b. In the contemporary context, various authorities have held that starvation could constitute a crime against humanity, whether in the form of extermination,¹⁹ murder,²⁰ persecution,²¹ or other inhumane acts.²²

¹⁴ ILC Draft Articles, art 2(2)(e); ICC Statute (n 1) art 7(2)(e).

¹⁵ ILC Draft Articles, art 2(2)(g); ICC Statute (n 1) art 7(2)(g).

¹⁶ UN, ‘The Charter and Judgment of the Nürnberg Tribunal: History and Analysis, Memorandum Submitted by the Secretary-General’ (1949) UN Doc A/CN.4/5, 67.

¹⁷ Law No 64, Nazis and Nazi Collaborators (Punishment) Law, 5710–1950 (Israel), <https://m.knesset.gov.il/EN/About/Documents/ShoahNaziCollaboratorLaw_eng.pdf> art 1(b).

¹⁸ *Attorney General v Eichmann*, District Court of Jerusalem (Judgement) Criminal Case No 40/61 (11 December 1961) paras 16, 130, 200–201, 244(5), 244(7); *Attorney General v Eichmann*, Supreme Court of Israel (Judgement) Criminal Appeal 336/61 (29 May 1962) paras 2, 10(1) (stating that “[t]he crimes created by the Law and of which the Appellant was convicted must be deemed today to have always borne the stamp of international crimes, banned by international law and entailing individual criminal liability”).

¹⁹ *Co-Prosecutors v Khieu* (Judgement) Case 002/19-09-2007-ECCC/SC (23 December 2022) paras 554–558, 585.

²⁰ ICC, Press Release (n 9).

²¹ *Ibid*; HRC, ‘Report of the Independent International Fact-Finding Mission on Myanmar. (2019); HRC, ‘Detailed Findings of the Independent International Fact-Finding Mission on Myanmar’ (16 September 2019) UN Doc A/HRC/42/CRP.5 <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/20190916/A_HRC_42_CRP.5.pdf> paras 172, 175.

²² HRC, ‘Report of the International Commission of Human Rights Experts on Ethiopia’ (19 September 2022) UN Doc A/HRC/51/46, paras 76–84, 98; Myanmar FFM Detail Findings (n 21) paras 172, 175; HRC, ‘Report of the

7. The *actus reus* of the proposal is rooted in other widely recognized international crimes.
 - a. The deprivation of objects indispensable to survival is central to both the war crime of starvation of civilians as a method of warfare and the underlying act of genocide involving the infliction of conditions of life calculated to bring about the destruction of a group.
 - b. As noted above, in its lethal form, the deprivation of objects indispensable to survival is an explicitly recognized form of extermination.
8. The *mens rea* of this proposal entails two alternative thresholds.
 - a. The first draws on that of other enumerated crimes in the Draft Articles. “Calculated to deny” parallels “calculated to bring about” in the crime against humanity of extermination and in the relevant underlying act of genocide.²³ Precisely because starvation occurs over time, with effects that can be difficult to trace, when a perpetrator engages in deprivation in a way calculated to deny the indispensable objects’ sustenance value, it is appropriate for criminal responsibility to attach regardless of the provable impact.
 - b. The second draws on standard principles of *mens rea* in relation to wrongful consequences, including in international criminal law. When it is sufficiently clear that the acts of deprivation would cause or exacerbate acute malnutrition within the population, criminal liability ought to attach based on the *mens rea* thresholds ordinarily applicable to foreseeable consequences, whether or not it is established that the deprivation was calculated to deny the objects’ sustenance value.
9. Starvation violates and endangers human dignity, health, life, and the social, moral, and political fabric of functioning society. Across each of those underlying values, its enumerated proscription would align with the existing list of crimes against humanity.

Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea’ (7 February 2014) UN Doc A/HRC/25/63, paras 76, 78.

²³ ILC Draft Articles, art 2(2)(b); ICC Statute (n 1) arts 6(c), 7(2)(b); Genocide Convention (n 1) art II(c).