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**Re: Call for input to inform the Special Rapporteurs' upcoming report to the UN General Assembly on starvation as a violation of international law.**

## I. Introduction

1. The Starvation and Humanitarian Crisis Division of Global Rights Compliance<sup>1</sup> hereby submits the following brief (‘Submission’) to inform the Special Rapporteur’s upcoming report to the UN General Assembly on Starvation as a violation of international law. Specifically, this Submission aims to outline one of the most common misconceptions surrounding the prohibition of starvation, and to debunk it through a brief comparative analysis of the situations in Ukraine and Gaza.

## II. Starvation, Famine, and Food Insecurity: A Common Misconception

2. One of the most common myths surrounding the concept of starvation is that occurs in situations where there is not enough food, instead of the civilian population’s access to food being prevented. Terms such as “hunger,” “malnutrition,” “famine,” or “food-insecurity,” are often used interchangeably in the common language and can mean different things to different actors, triggering different responses from humanitarian actors, policy makers and international law practitioners.
3. The situation in Gaza appears to embody the general understanding of what “starvation” is or is supposed to look like in the common imagination. Already prior to the most recent escalation of hostilities, 80 per cent of Gaza’s inhabitants were relying on humanitarian aid to survive due to the air, land, and sea blockade imposed by Israel since 2007. On 9 October 2023, Israeli Defence Minister announced the strengthening of the blockade on Gaza into a complete siege, disproportionately cutting Palestinian civilians off from objects indispensable to their survival (‘OIS’), compounded by a campaign of sustained aerial and ground bombardment. The most recent report from the Integrated Food Security Phase Classification (‘IPC’),<sup>2</sup> and statements from organisations like Medical Aid for Palestinians considering the current situation in Gaza to be “the fastest decline in a population’s nutrition status ever recorded, [meaning] children are being starved at the fastest rate the world has ever seen”<sup>3</sup>, reinforce this view.
4. The situation in Ukraine reflects instead a country that prior to its full-scale invasion in February 2022 was described as the “breadbasket of Europe” due to its thriving agricultural sector and its role as a leading grain exporter. As such, Ukraine is infrequently associated with starvation or food insecurity (apart from its relatively recent history of famine during the Holodomor). Reference is rather more commonly made to food insecurity caused by the war in Ukraine and its repercussions on third countries that used to rely on Ukraine’s grain exports.

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<sup>1</sup> Global Rights Compliance (‘GRC’) is the leading legal organisation on prohibiting, preventing, and seeking accountability for starvation as a method of warfare and associated violations and crimes. GRC’s Starvation and Humanitarian Crisis Division possesses unrivalled expertise and granular knowledge of the crime of starvation, derived from a dedicated portfolio of analysis, accountability and investigative work. The Division has conducted multiple starvation investigations focusing on [Syria](#), [South Sudan](#), [Yemen](#), [Tigray](#), [Ethiopia](#), [Ukraine](#), and more recently [Palestine](#).

<sup>2</sup> IPC, ‘Famine Review Committee: Gaza Strip, March 2024’ (18 March 2024).

<sup>3</sup> X, [Post of Medical Aid for Palestinians](#) (29 February 2024).

5. While adequately describing some of the most salient aspects of starvation, the language around food insecurity and famine often fails to reflect the intentional conduct that often underpins it, in breach of international human rights law, international humanitarian law, and international criminal law. Ensuring that the deliberate deprivation of OIS is labelled consistently and appropriately will ensure that the conduct is properly recognised as a crime and that perpetrators are held accountable.
6. Another common misconception is that starvation and OIS is limited to food items. The law here is very clear that it should rather be interpreted more broadly so as to include other essential commodities, such as water, medical supplies, electricity, and gas, amongst others.<sup>4</sup> The recent arrest warrants for the war crime of starvation sought by the International Criminal Court ('ICC') against Netanyahu and Gallant reveal in surprising detail how the ICC view this crime, reinforcing that beyond food and water, attacks on fuel and electricity are firmly part of the crime of starvation. It should also be noted that for the prohibition of starvation to be violated, the perpetrator must have intended to starve the population, but it is not necessary for people to actually perish as a result.

### III. Ukraine and Gaza: A Comparative Analysis

7. There are profound differences between the situations in Ukraine and Gaza and any such comparative analysis should proceed cautiously. Yet the two situations illustrate commonalities which usefully serve to debunk the aforementioned myths. As of end of March 2024, the death toll by starvation or dehydration in Gaza was estimated at 31 persons, including 27 children.<sup>5</sup> Further, the latest report by the Food and Agriculture Organization of the United Nations ('FAO') and the World Food Programme ('WFP') predicts that "[i]n Palestine, over 1 million people – half of the population of the Gaza Strip – is expected to face death and starvation (IPC Phase 5) by mid-July."<sup>6</sup> On the contrary, there are to date no recorded deaths by starvation since the onset of the full-scale invasion of Ukraine. The differences in the pre-existing vulnerabilities affecting the civilian population and the food security situation, as well as in these consequences are stark
8. However, looking at the conflict through a starvation lens, with a focus on the prohibited conduct rather than on the impact or consequence caused by such conduct, allows for a more accurate and comprehensive reading of the situations and to identify striking similarities in conduct that would otherwise be overlooked.
9. **Ukraine:** Starvation's visibility is often hindered by the resilience of communities. In addition, there is usually a delay between conduct and impact in relation to starvation, where food

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<sup>4</sup> ICRC, Commentary to Article 54 AP I, paras. 2102-2103; ICRC, Commentary to Article 14 AP II, paras. 4802-4803. Similarly, from an IHRL standpoint, the right to food and nutrition is also inextricably linked to the right to an adequate standard of living, right to water and housing, as well as the right to health, life and right to be free from torture and inhumane treatment.

<sup>5</sup> OCHA, 'Hostilities in the Gaza Strip and Israel - reported impact | Day 175' (29 Mar 2024).

<sup>6</sup> FAO and WFP, 'Hunger Hotspots: FAO-WFP early warnings on acute food insecurity, June to October 2024 outlook' (5 June 2024).

insecurity or the impact of depriving OIS may manifest weeks, months, or even years later. International law and international attention have typically been preoccupied with more routine battlefield crimes that have immediate visible casualties and damages. This was one of the most prominent issues faced by the Starvation and Humanitarian Crisis Division upon commencing an investigation into attacks on critical infrastructure and starvation in Ukraine, how does one investigate starvation crimes in the absence of food insecurity or famine in Ukraine?

10. Attacks on civilians and civilian infrastructure and deprivation of OIS have, however, been widespread in Ukraine, with dire consequences both internally and externally relating to global food security. The unlawful full-scale invasion of Ukraine by Russia has indeed been characterised by a range of starvation-related tactics from the very outset. What is apparent following GRC's investigations and analysis is that there are three phases of Russia's weaponisation of food: first, by laying siege to civilian inhabited areas and attacking cutting off access to essential items; second, by patterned attacks against civilian critical infrastructure (including electricity, shelter, energy, and water supplies); and third, by weaponising agriculture by preventing or restricting exports of Ukrainian grain, characterised by repeated attacks against grain facilities, pillaging of agricultural machinery and harvests, and the blockade of ports and grain.
11. Disentangling the chain of events that allows practitioners to find that civilians were in fact deprived of OIS or establishing the presence of an intent to starve might not seem obvious in certain instances. Where critical infrastructure is attacked, destroyed, removed or rendered useless, the consequences for civilians may seem far removed. However, it is fundamental to consider what functions a facility was carrying out for civilians. The destruction of or damage to electricity infrastructure or facilities might have a direct knock-on effect on the functioning of life-saving machinery in a hospital, or on water pumping stations that ensure civilians' access to potable water, or on telecommunications that enable humanitarian workers to deliver assistance to those in need.
12. **Gaza:** Similarly, the situation in Gaza has been characterised by the systematic denial of humanitarian aid and access, the deprivation of and attacks on OIS, including food, water, medicine, electricity and fuel. The use starvation tactics and pre-existing food insecurity has resulted in one of the world's fastest and most visible declines in food security.<sup>7</sup> Using starvation as a method of warfare has been championed by senior Israeli military and government officials including through the repeated use of dehumanising language, referencing a fight against "human animals".<sup>8</sup> Additionally, Israel continues to use humanitarian aid as a negotiation tool,

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<sup>7</sup> X, [Post of Medical Aid for Palestinians](#) (29 February 2024).

<sup>8</sup> This has been further confirmed by the Prosecutor of the International Criminal Court filing applications for arrest warrants before Pre-Trial Chamber I of the ICC for Israeli Prime Minister, Benjamin Netanyahu, and Minister of Defence, Yoav Gallant. The suspects are believed to bear criminal responsibility for the war crime of starvation as a method of warfare under article 8(2)(b)(xxv) of the Rome Statute as well as other war crimes and crimes against humanity associated with the use of civilian starvation, committed on the territory of the State of Palestine, and more specifically in the Gaza strip, from at least 8 October 2023. In this sense see ICC-OIP, '[Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine](#)' (20 May 2024).

as well as to obstruct, restrict and to deny access to aid,<sup>9</sup> including by closing crossings<sup>10</sup> and deliberately attacking humanitarian workers, convoys, and facilities.<sup>11</sup> A particularly heinous example of aid obstruction and the weaponisation of food was the attack on the queue of starving civilians that had gathered to receive flour, which resulted in the killing of 118 persons and injuring of 760.<sup>12</sup>

13. Yet a specific type of example where the similarities may be more apparent are the use of **sieges**, such as Mariupol, where critical elements included attacks against OIS and critical infrastructure with an emphasis on deliberate attacks against energy, water, food and aid/food/water distribution points, telecommunications and healthcare facilities, and the discriminatory and arbitrary denial of humanitarian aid to civilians living under the control of Ukrainian forces.<sup>13</sup> Many of these tactics are apparent when assessing the past eight months of hostilities in Gaza since the strengthening of the siege around the enclave, with systematic attacks against OIS, critical infrastructure, telecommunications, humanitarian facilities, and attacks on civilians desperately seeking to access humanitarian aid having been widely recorded and reported on.
14. There remain, however, also fundamental differences, in that Mariupol was a porous siege with civilians sporadically permitted to flee at certain points, albeit often through filtration systems.<sup>14</sup> In Gaza, conversely, people have been prevented from leaving to neighbouring countries since 7 October 2023.<sup>15</sup> At least 1.7 million persons, almost the entire population of Gaza, have been forcibly displaced, often multiple times within the enclave due to military operations.<sup>16</sup>

#### IV. Conclusion

15. Clarifying the parameters of the prohibition of starvation and the language surrounding the framing of this type of conduct is of the essence and is one of the international institutional changes that GRC have been working towards. As mentioned above, it is not a material element of the crime that civilians starve, this being a crime of intent, not conduct. Too often, it is not until an IPC Phase 5 or worse famine is declared that a given situation comes into the international community's focus and high-level action is requested or taken. What is needed is a paradigm shift in the reference grid for international action or reaction, away from the consequence towards conduct-related triggers to further preventative action. This would ensure

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<sup>9</sup> AIDA, 'Snapshot of Deprivation of Humanitarian Aid in the Gaza Strip' (20 February 2024).

<sup>10</sup> Amnesty International, 'Israel defying ICJ ruling to prevent genocide by failing to allow adequate humanitarian aid to reach Gaza' (26 February 2024).

<sup>11</sup> Amnesty International, 'MSF to UN Security Council: The people of Gaza need an immediate and sustained ceasefire now' (22 February 2024).

<sup>12</sup> UN OHCHR, 'UN experts condemn 'flour massacre', urge Israel to end campaign of starvation in Gaza' (5 March 2024).

<sup>13</sup> For more information, see GRC, "'The Hope Left Us: Russia's Siege, Starvation, and Capture of Mariupol City' (13 June 2024).

<sup>14</sup> *Id.*

<sup>15</sup> HRW, 'No Exit in Gaza - Left With No Other Options, Residents Should Have a Right to Flee' (1 April 2024).

<sup>16</sup> Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 'Detailed findings on the military operations and attacks carried out in the Occupied Palestinian Territory from 7 October to 31 December 2023', A/HRC/56/CRP.4 (10 June 2024), para. 20.

that the law can also play a preventative role in addressing conflict-induced hunger and can step in well before deaths by starvation and dehydration occur or before a country's critical infrastructure is decimated hindering long-term recovery.

16. Finally, it is important to note that an international criminal prosecution for the crime of starvation, whilst long overdue, is not the panacea. It can however serve as an important deterrent. Accountability for starvation crimes has often been marginalised in emergency responses to conflict-induced hunger situations, which seem to only focus on the immediate needs of the civilian population and are often viewed through the prism of humanitarian operational challenges. However, longer-term accountability strategies, including through ensuring correct labelling and approaches to investigating and identifying such conduct, must be prioritised.