

Journal of International and Global Studies

Volume 4 | Number 1

Article 2

11-1-2012

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Jappah, Jlateh Vincent MD, MSc and Smith, Danielle Taana (2012) "State Sponsored Famine: Conceptualizing Politically Induced Famine as a Crime against Humanity," *Journal of International and Global Studies*: Vol. 4 : No. 1 , Article 2.
Available at: <https://digitalcommons.lindenwood.edu/jigs/vol4/iss1/2>

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State Sponsored Famine: Conceptualizing Politically Induced Famine as a Crime against Humanity

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Abstract

This paper argues for the codification of politically induced famine as a crime against humanity. We use the term “state sponsored famine” to reflect the conceptualization of famine as not merely nature-induced but also as a willfully orchestrated state policy. The specification of faminogenic practices as criminal would subject perpetrators to international jurisdiction and provide deterrence to future offenders. We review traditional conceptualizations of famine as a geophysical event. We explore Amartya Sen’s concept of famine as caused by the collapse of individual entitlement and market exchange dynamics; we also discuss commentary on Sen’s approach. Further, we analyze the limits of these frameworks in accounting for systemic socio-political processes orchestrated by states and/or individuals with authority that cause famine or contribute to its evolvement from a natural disaster into a manmade catastrophe. This paper adds to existing literature that challenges conventional thinking about famine as primarily being the result of natural disaster. There is limited literature in direct opposition to the criminalization of famine. However, arguments are also presented which point to legal and practical difficulties in criminalizing faminogenic practices.

Introduction

Savage images of emaciated African children (and, to a less frequent extent, Asian children) on television screens and in news magazines evoke strong emotions. These images are meant to stimulate profound human emotions and encourage donor governments and global citizens to respond generously with humanitarian aid, personal donations, and the mobilization of social advocacy networks. Many interpret these images as the quintessence of lack of resiliency and maladaptation of groups of people against powerful geophysical forces. These presumed forces relate to climate change, drought, rising water tides, earthquakes, and insect invasions and topsoil erosion that effect crop production. The images of starving children around the world appeal to media consumers to provide aid for the less fortunate. Yet, the general perception of famine as a nature-induced event may not hold true for most of the famine experiences in certain pockets of the globe.

In this paper, we contend that famines are also caused by acts of state deviance and assert that the act of famine is a political act. We argue that politically induced or state sponsored famine should be considered a crime, and, specifically, a crime against humanity. This classification enables institutionalized faminogenic policies to be viewed as manmade rather than as nature-induced. Marcus (2003) defines faminogenic practices as the implementation of policies by governments that engender famine and the continuation of these policies despite awareness that they result in mass starvation. In addition, Marcus argues that faminogenic policies are intentionally used by governments as a tool of extermination of specific populations. We assert that by clearly defining what constitutes faminogenic practices and by codifying these practices as criminal in international law, perpetrators would then be subject to universal jurisdiction and prosecution. This codification has the potential to deter faminogenic practices and to save populations from the scourge of famine.

The paper is organized as follows. The first section provides conceptualizations of famine and limitations of traditional definitions. The second section reviews the effects of state deviance, including willfully induced famine, on populations. In this section, we apply Foucault's concept of governmentality within the context of famine. The governmentality approach provides important insight into how famine is perceived, managed, and responded to. The third section discusses codifying famine as a crime against humanity and also discusses the legal complexities of this codification. The conclusion summarizes key arguments made in the paper.

Conceptualizing famine

Malthus (1798) provides an early theory of famine in his proposition that population size increases exponentially because of the passion between the sexes, which results in the production of children, with population growth far exceeding food production. Malthus argues that with time, the availability of food would decrease as population increased, resulting in food shortage and eventually in famine. As such, the power of population growth is infinitely greater than the agricultural capacity to produce food for man. According to Malthus, "Population, when unchecked, increased in a geometrical ratio, and subsistence for man [increased] in an arithmetical ratio" (p. 6). For Malthus, famine represents a "natural check" that reduces population size to a level that can be sustained by the nation's agricultural productivity. He

articulates the traditional conceptualization of famine as a natural disaster that results from shortages in the availability of food.

In his seminal book on poverty and famine, Sen (1981) synthesizes definitions of famine presented in the existing literature. He argues that famine occurs during widespread and/or extreme food shortage, with extremity measured by the degree of mortality caused by starvation. Famine results in persistent hunger, evidenced by emaciation and an increasing mortality rate caused by starvation and/or disease. Sen describes famine through the perspective of entitlement. Sen's four sets of entitlements which allow individuals to access food are (1) trade or exchange of commodities, (2) the production of crops and livestock, (3) ownership of labor in the form of wages, and (4) transfer and inheritance entitlements. Individuals gain access to food through exchanges of their entitlements. Based on the entitlement perspective, famine can be viewed as an event that occurs when the entitlements of a group of people are undermined, and they cannot gain access to an adequate amount of food (Dreze & Sen, 1989). The end result is increasing mortality from starvation and diseases related to starvation.

Green and Ward (2004) note the limitation of Sen's emphasis on individual entitlements and economic exchange relationships as immediate causes of famine, which fail to address broader structural features that induce famine. Similarly, Rangasami (1985) questions Sen's early formulation of famine as an event, a perspective which does not recognize social, political, and economic determinants that mark the inception of the famine process. She shows the limitations of the entitlement approach in theorizing famine. Rangasami argues instead that famine can be described as a process that is differentiated by three periods. The first period is dearth, which refers to the social and economic origins of famine. The second period is famishment, which refers to the process of being starved. The final period is morbidity, or the incidence of sickness within a region. Thus, Rangasami redefines famine as a set of systemic socio-economic and political processes that collude to maintain the vulnerabilities experienced by diverse population groups. Devereux (2001) similarly criticizes Sen's entitlement perspective as decontextualized from the social and political processes that cause the famine. For example, one of the most devastating famines in recent history occurred in China during the Great Leap Forward in the early 1960s, which resulted in 30 million deaths (De Waal, 2008). Although these deaths directly resulted from disastrous agricultural policies, emphasis was shifted from the social and political underpinnings, and no one was held accountable.

Perspectives of famine have shifted from famine as an abruptly occurring event to famine as a process occurring over a period of time, characterized by both natural and manmade events including drought, inefficiency, mismanagement, and political attributes. Famine occurs when chronic starvation results in widespread death (Sen, 1981). Walker (1989) defines famine as a socio-economic process resulting in the rapid destitution of the most vulnerable and marginalized groups in a community to a point where the group cannot sustain its livelihood. Walker refines the model of famine as process-based with the identification of four stages of the faminogenic process: (1) the adoption of coping strategies which overcome normal seasonal stress, (2) the adoption of strategies which trade short-term gain for longer-term problems, (3) the reliance on outside aid, (4) and the final stage of starvation and death. He argues that these stages begin with the adoption of non-reversible coping strategies. Howe (2010) applies systems theory to famine, and argues that "famines should be seen (more appropriately) as self-reinforcing dynamics or systems that arise from a combination of conditions that often result from longer-term processes" (p. 33).

Famine extends beyond the individual and the event to include societal dislocation and breakdown. Devereux (2001) argues that entitlements to assets that are communally owned are ambiguously defined, and ownership rights are not clear. Entitlement rights are also violated during war. He develops a complementary analysis of famine that conceptually improves on the entitlement approach by recognizing the role of non-market forces in determining entitlements and in violations that emerge during famines. Devereux also analyzes famine as a social process and as a public health crisis. In addition to economic entitlements, famine relates to state corruption, socio-economic deprivation, marginalization, health crises, and policy making (Howe, 2010; Green & Ward, 2004). In an analysis of strategic starvation in Kailik, a town in Darfur, De Waal (2008) notes that widespread famines arise from political malfeasance, which includes government error, exclusion, and inaction. Conceptions of famine extend beyond natural event occurrences such as drought or flooding. Famine encompasses social and economic processes, and political strategies employed during crises, conflict, war, and even peacetime to accomplish specified agendas.

Conflict-induced famine has been a common occurrence in sub-Saharan Africa; such instances of famine highlight the important role of political negotiations in preventing famine. Conflict strategies include earth scorching, food requisitions by military forces, disruptions in food production and supply, enforced food rationing, disrupted economies, undermined coping strategies, population displacements, and the creation of refugees (De Waal, 1997; Devereux, 2001). The 2011 food crisis in the Horn of Africa almost engulfed the entire region. Most of southern Somalia suffered from famine. Kenya and Ethiopia, despite weak democratic systems, were able to more effectively respond to the food crisis, as compared with Somalia, a nation which has not had a central government since 1991 and continues to be mired in armed conflict. Somalia has been governed by warlords and militias who occupy different regions of the country. Somalia was unprepared for the crisis and lacked adequate knowledge and mechanisms needed to respond to famine. Further, Al-Shabaab, the militant Islamic organization, had earlier banned humanitarian organizations from the region, closed humanitarian corridors, and engaged in activities which impeded the optimal functioning of aid agencies and other organizations. Authorities in Somalia at the time contributed to the deaths of thousands of vulnerable people and are culpable for the famine crisis that engulfed the nation.

De Waal and Whiteside (2003) conceptualize a form of famine which is differentiated from previous drought-induced or mismanagement frameworks. They theorize a new variant of famine, primarily found in southern African countries, which has emerged as a result of high HIV prevalence. New variant famine is precipitated by HIV in countries with a high prevalence of the virus as the immunity of people with HIV is compromised and as the deaths of young adults diminish agricultural productivity. According to De Waal and Whiteside (2003), the HIV pandemic has created a new category of vulnerability that includes a reduced household labor force, loss of skills and assets, and an increased burden of caring for the sick and orphans. This new variant famine is based on interactions between HIV and malnutrition that does not employ coping strategies, as there is no hope of full recovery for HIV victims. The traditional view of drought-induced famine with the hope of recovery differs from HIV-induced famine, which presents multiple challenges.

Reviewing the effects of state deviance on populations

Recent natural disasters and governments' failure to adequately respond to these disasters can draw conclusions of state crime against its population. The devastation of life and property in the aftermath of Hurricane Katrina occurred in the world's most affluent and powerful nation. The Bush administration's knowledge of the instability of the levee structures, and its failure to dedicate material resources in mobilizing government action in a timely manner after the storm arguably amounted to federal negligence. Critics maintain that the administration failed in its response because Katrina victims were predominantly poor and underprivileged. Giroux (2007) states:

What first appeared to be a natural catastrophe soon degenerated into a social debacle as further images revealed, days after Katrina had passed over the Gulf Coast, hundreds of thousands of poor people, mostly black, some Latinos, many elderly and a few white people, packed into the New Orleans Superdome and the city's Convention Center, stranded on rooftops, or isolated on patches of dry highway without any food, water or places to wash, urinate, or find relief from the scorching sun. (p. 306)

Similarly, in a moment of intense rage, the musician Kanye West departed from a scripted National Broadcasting Corporation (NBC) television performance and blurted out, "George Bush does not care about black people" (de Moraes, 2005). Despite two wars and a nearly collapsing economy during his presidency, President George Bush asserts that Kanye West's rebuke that he was racist in his failure to respond to Katrina victims represented the lowest point of his presidency (Bush, 2010). This encounter between the former president and a musician gives insight into the magnitude of perceived state deviance and its ramifications. Bush's assertion that West's accusation represents his lowest point expresses the idea that important responsibilities of a democratic government include seeking and protecting the welfare of all citizens, especially the most vulnerable. The indictment that his administration failed to care for segments of American society is an indication of failed democratic principles, which suggests that democracies may lack the capacity to adequately care for their most vulnerable.

The 2008 earthquake in China and the 2002 earthquake in Turkey exemplify geophysical disasters whose impacts were magnified by rampant and systemic political malfeasance on the parts of both state and economic actors. On the surface, causality may seem elusive or attributable to extreme geophysical forces. However, human behavior was a major component of causality and resiliency in these disasters. Deficiencies in building structures and failure to enforce building codes, which precipitated the structures' collapses, were attributes of gross negligence, clientelism, and corruption. Roniger (2004) defines clientelism as "a form of patrimonial corruption of public agencies, evident, for instance, when politicians and officials distribute public services and jobs personally in a restricted, arbitrary, secretive, and unchallengeable way" (p. 354). Clientelism closely relates to political corruption, which entails the use of political office for illegitimate personal gain.

Scandlyn et al. (2009) argue against the dominant hegemonic view of causes of disasters by natural forces and processes outside of human history and beyond human or governmental control as a deflection from criticism of inadequate enforcement of building codes and lack of investment in warning systems and disaster planning, which result in some communities suffering from higher casualties and costs than others when disasters do occur. They note that the access to resources and power that is embedded in social institutions and social structures

interact with the actions of individuals to create vulnerability to disasters. Attempts to emphasize the causes of disasters as primarily nature-induced while minimizing manmade influences tend to neutralize state deviance. If claims of malfeasance and negligence are validated, then these practices constitute violations of international human rights, which include the right to life.

In a similar vein, faminogenic trends have been evident in recent history and continue into the 21st century. Sinclair and Fryxell (1985) suggest that continuous famine in the Sahel region since 1968 is manmade and is caused by overgrazing of cattle rather than by drought. According to them, famine is worsened by developmental aid projects and by emergency food aid, as these efforts are not integrated with long-term care for human populations and for the regeneration of the vegetation. Devereux (2009) highlights that as of the turn of this century, famines have claimed not less than one hundred thousand and possibly one-quarter of a million lives in Ethiopia, Malawi, and Niger. He insists that the decline in food availability played only a minor role in these crises. Despite the great famine of 1984-1985, the early warning system put into place in 1976, and the Disaster Preparedness and Prevention Commission (DPPC), it appeared that the Ethiopian government deliberately refused to respond adequately to avert the 2000 famine. Khalif and Doornbos (2002) assert that the former Ethiopian Prime Minister's home province, the Tigre Region, which was also effected with similar rain shortfall, did not suffer a plight similar to that suffered by the Somali Region. They note that the early warning system has been non-functional in the Somali Region due to governmental restriction of non-governmental organizations (NGOs) and other United Nations agencies. Similarly, during the Niger famine in 2005, the government and other business actors in Niger exported food commodities to neighboring countries where purchasing power was higher (Devereux, 2009; Keenan, 2005). Just as government practices can cause famine, a government can also prolong and worsen a famine by ignoring it once it has started. The famine of 1943 that occurred in Bengal, India occurred during a period of economic prosperity. Millions of agricultural workers starved because they could not afford rising food prices that resulted from the economic boom. These examples illustrate an alarming feature of famine: it occurs most often where there is more inequality and where resources are available to only the privileged. Not only did these state actors not seek the interests of their populations, they also sought to exploit the vulnerabilities of their people and maximize their own personal gains.

These events provide support for Sen's (1981) analysis that famine usually occurs in places where there is sufficient stock of food products. Keenan (2005) notes that Niger's president at the time, Mamadou Tanja, made it extremely difficult for the international community to intervene in a timely manner by denying the existence of famine in his country, which made it more difficult for the World Food Program to solicit funds from donors. Devereux (2009) contends that in all these cases, NGOs working in affected communities informed host governments about the impending food crises, but these warnings were ignored. He notes the lack of political will to protect the vulnerable on the part of governments, the late or non-response by donors, and the circulation of inaccurate information as among the factors that failed to prevent these famines. Devereux therefore argues that the most critical question regarding famine in contemporary Africa is not why famines have happened but rather why these famines were not prevented. He argues that food production or market access to food might fail but that famine only occurs when there is a failure of response. According to him, given the statistics regarding the causes of famine, which not only result in a lack of food for the poor but also an increased risk of illness amongst the entire society, famine can be used as an indicator to judge whether a crime has been committed by a country's government.

De Waal (2008) notes the role of politics in the occurrence of famine. According to him, conflict-induced famine signifies the importance of political contracts between political leaders and their constituents in preventing famine. Government officials and private citizens must acknowledge the occurrence of famine and work together to mitigate its magnitude. Further, external responses to famine, including international aid and the delivery of emergency food supplies, may undermine the development of these contracts, as corrupt governments use much of this international aid towards maintaining their power. By acknowledging famine as an indicator of state crime, international legal institutions can declare governments guilty of human rights violations. The international community continues to sanction states and influence state actions through diverse mechanisms. Some of these strategies employed by international institutions in many ways have saved lives. As such, similar strategies can be applied to discourage faminogenic practices. Aid can be contingent on proof of wrongs being righted.

The Democratic Republic of the Congo (DRC), with vast natural resources, has experienced ongoing conflict since 1997, which has resulted in the deaths of more than five million people from violence, famine, and disease (United States Central Intelligence Agency, 2010). Mobutu Sese Seko, head of the former Zaire's authoritarian regime for 32 years, misappropriated and deposited billions of dollars of the country's resources into his personal Swiss and other bank accounts. After his death, the DRC plummeted into a civil war that was termed Africa's World War. Despite fundamental flaws and malfeasance in governance, Sese Seko was never brought to justice for the ensuing carnage, rape, deprivation, and famine that marred the former Zaire. He set a precedent for unaccountability that many of his countrymen continue to follow. Justice unfulfilled does not negate Seko's political malfeasance, which led directly to famine and constituted a crime against the people of the DRC.

Similarly, during his 32 years in power, Robert Mugabe of Zimbabwe could have gradually transferred land to indigenous Africans, as he purportedly agreed to do, as outlined by his redistribution of land policy, to remunerate blacks for past inequalities against them. However, to maintain his grip on power when threatened, he has instead implemented policies which foment violence against farmers, disregard for the rule of law, and economic mismanagement resulting in hyper-inflation and reckless price controls. These policies have resulted in famine and mass migration of Zimbabweans into neighboring countries, where they are subject to ongoing xenophobic attacks, as occurred in South Africa in the past few years (Howard-Hassmann, 2010).

North Korea represents a documented case in which political policies to maintain power have resulted in famine. Despite widespread scarcity of basic food supplies, the regime continues to implement policies that result in widespread starvation of its people. The North Korean government appropriates scarce resources for the development of weapons and militarization, at the expense of a starving and impoverished population. The regime continues implementation of faminogenic policies despite full awareness of the detrimental impact of such policies. The crime is not merely about North Korea's continued development of military weaponry, although the effort to develop weaponry correlates to the outcome of famine. The crime is about a regime's policies that restrict and stifle its people's resiliency and about the willful faminogenic diversion of scarce resources from the vulnerable. In the early 1990s, North Korea was faced with severe famines, and its policies significantly hindered it from getting aid from donor countries. North Korea has never disclosed the number of people who died from the famine; however, the number of deaths is estimated to have been between 200,000 and 300,000 to 3.5 million people, with the lower range generally accepted as the most accurate (Woo-Cumings, 2002). Even when

requesting aid, North Korea asked that it be provided secretly. The political ideologies of donor countries also contributed to the deaths by placing conditions on the aid that were not palatable to North Korea, the requesting country.

According to Sen, famine does not routinely occur in democracies (Sen, 1981; Devereux, 2001). As Sen argues, no fully democratic government has ever experienced famine. Although Ethiopia can be considered a democracy, famine persists in the nation. Upon closer evaluation, it becomes clearer that the level of democratic representation and the strength of democratic institutions within the Ethiopian government arguably do not represent a developed democracy. While democratic governance does not completely solve the hunger problem, widespread loss of life due to famine is less likely to occur with democracy. Sen relates democracy to famine in that politicians in a democracy will initiate relief efforts when food shortages occur so as to win the vote and maintain their power. As elected officials, democratic politicians are more accountable to their electorates and are thus more likely to respond to population stresses. Arguably, in a developed democracy that is inclusive and does not disenfranchise any groups, the right to vote within its society decreases the risk of state deviance.

Countries that adopt neo-liberal democratic values also ensure mechanisms to prevent famine, as Sen suggests. These countries create a functional political economy that allows their people to prosper and to avert mass starvation and famine. In contrast, famine occurs in authoritarian and conflict prone states that lack democratic institutions and disregard basic human rights. Sen suggests that the lack of a democratic government in India at the time of the famine contributed to the disaster, as the government did not sufficiently care for its citizens to dispense relief. Howe and Devereux (2004) describe the definition of famine as an event within the Famine Codes in India, within which the colonial government recognized the financial and political costs of failing to prevent famines yet “felt no moral obligation to institute social welfare programmes for poor Indians in non-emergency contexts” (p. 357). Devereux (2009) observes that adverse local, national, or international politics have been primary causes of 21 out of 32 major 20th century famines. He characterizes famines as resulting more from corrupt governments than from natural events. Natural disasters, including drought, do not necessarily result in famine if governments anticipate and respond to these disasters adequately. A people-centric government provides care for the vulnerable and creates the necessary political and environmental conditions for its citizens to prosper.

Foucault (1991) contends that in the era of governmentality, the modern government aims to improve the welfare of its population. He notes that this trend has been developing since the 18th century in western societies, wherein government intervenes directly or indirectly through the mechanism of security to manage demographic factors such as fertility, life expectancy, economic productivity, reduction in mortality, and prevention of famine. According to Foucault, government becomes concerned with “making life” rather than with “taking life.” Foucault terms the focus of government on population affairs “biopolitics,” in which, he claims, the biological existence of a population is at stake. Foucault conceptualizes the biopolitical form of power as being focused on “man as a species” and aimed at the collective body (i.e. a population). Biopolitics aims to increase the population’s productivity through governmental management and interventions. In this respect, the government of life adopts strategies focusing on demographic characteristics at the population level.

Agamben (2005) theorizes that the modern government manages risks associated with the state for the protection of its population. O’Malley (2004) suggests that “not only subjects, bodies, and social relations may be recast by governing through risk, but even the environment

and elements may be transformed" (p. 9). He highlights the redefinition of drought in the Australian outback from being a natural disaster to being a manageable risk. O'Malley writes that "in this new governmental guise, drought is constituted as something farmers should anticipate and make provision for, rather than regard as an unforeseen cataclysm" (p. 9). If vulnerable groups in societies do not have the means or lack the ability to adapt to unforeseen events, their governments must respond as best as possible to protect them from harm. Foucault (2003) recognizes governmental power in the modern state as not just coercive, but as a force for population welfare within a broader political economy.

Codifying famine as crime against humanity in international law

Pre-deterministic theorists (Lombroso, 1911; Wilson & Herrnstein, 1985; Goozen et al., 2007) have argued that social deviance is pre-determined due to intrinsic biological attributes. These theories have been challenged by other social theorists (Sutherland et al., 1992) who assert that deviance is learned behavior and more socially acquired. Even if pre-deterministic theories are valid, in human societies, individuals are expected to assume responsibility for their actions. Similarly, accountability for acts of state deviance, which include institutionalized famine, should be highly encouraged. Famine as a natural disaster precipitated by declining food availability is not inherently criminal. A crime occurs when a state has the capacity to predict and plan for a famine-related disaster in order to minimize its impact but fails in disaster preparation and in its ensuing response to mitigate the catastrophic effects, conceals relevant relief information from humanitarian agencies and/or donors, blocks humanitarian corridors, or engages in other faminogenic practices with an aim to exterminate or cause mass starvation of a group of people. Negligence or apathy on the part of the state that results in its failure to respond to the crisis can be considered criminal, based on its technological capacity for early identification and early response, its level of mobilization of resources, and its prioritization of the situation. Thus, culpability exists if (1) a government has the technological capacity to predict famine yet fails to do so, (2) if a government has the resources needed to mobilize a response to famine yet fails to respond in an adequate and timely manner, causing malnutrition, disease and death among vulnerable populations, (3) if a government delays responses based on considerations of race, ethnicity, class, religion and other factors, or (4) if famine directly results from deliberate state policies, with foreseeable results. In her study of genocide, Fein (2007) theorizes that human rights violations can be thought of as crimes of attrition that result in widespread death through displacement and other mechanisms, with the state's tolerance of or complicity in implementing these mechanisms. Fein's framework provides important insight into the conceptualization of famine as a violation of human rights. Famine can similarly be viewed as a crime of attrition in that perpetrators use mass starvation to indirectly exterminate a group of people. Perpetrators engage in slow, subtle methods that aim to deny a group the right to life (Fein, 2007). In many ways, famine serves as a strategic means of decimating particular social groups; it is not an unintended consequence but rather a deliberate and organized means of carrying out the state's policies.

A crime occurs when governments or individuals who occupy high positions of command deliberately engage in faminogenic acts as a form of political weaponry against a particular social class, ethnic, racial, religious, or gender group. As government has the responsibility to protect its citizens from both natural and manmade disasters, failure to protect especially the most vulnerable populations and to maintain their human rights draws into question the state's

compliance with societal norms. It is a government's duty to protect its citizens without discrimination and to uphold the laws, but, as pointed out in previous examples, in many cases of famine and human rights violations, it is the government that is the perpetrator and law breaker. Countries most often affected seem to be those which lack democracies and have high rates of inequality within their societies (Sen, 1981). State negligence and the implementation of willfully orchestrated plans or policies that cause widespread death should be criminalized. Marcus (2003) contends that famine can be criminalized based on elements of existing international laws that prohibit starvation of civilians as a method of warfare. Article 54 of the Geneva Conventions states:

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. (United Nations, 2000)

Consistent with these prohibitions, state sponsored famine and willful starvation or acts that cause starvation can constitute criminality.

The Convention does not prohibit political negligence or the failure of political responses that may result in mass starvation and famine. However, Article 54 recognizes derogations from these prohibitions by a party to the conflict when it is "in the defense of national territory against invasion" and when made "within such territory under its own control where required by imperative military necessity" (United Nations, 2000). Such prohibitions criminalize the deliberate starvation of civilians during conflict yet restrict responses from the international community to international (and not to internal) conflicts (Marcus, 2003). Marcus questions the moral and legal sensibilities in the criminalization of deliberately perpetrated mass starvation during war but not of the mass starvation of a people by its government during peacetime. Faminogenic policies, whether engendered during violent conflict or peace, should be considered criminal since starvation, a precursor to famine, has been prohibited. War crimes, genocide, and other gross violations of human rights are internationally recognized crimes. Historical precedents of convictions of perpetrators of crimes against humanity do exist (e.g. the Nuremberg and Tokyo Trials of post-WWII, the International Criminal Tribunals for Rwanda, the former Yugoslavia, Sierra Leone, and others). However, Article 5 of the Rome Statute limits the jurisdiction of the International Criminal Court (ICC) to crimes of genocide, crimes against humanity, war crimes, and the crime of aggression. These are the most serious crimes of concern to the international community. Famine can also be a means for the accomplishment of these atrocities.

Article 6 of the statute defines and specifies genocide as acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group. These acts include killing, causing serious bodily or mental harm, and deliberately inflicting conditions of life calculated to bring about the physical destruction of the group, in whole or in part. Crimes against humanity are specified in Article 7 of the statute as acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack, including murder, extermination, torture, persecution, and other inhumane acts. Extermination includes "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"

(United Nations, 2000). Based on existing definitions of genocide and crimes against humanity in the Rome Statute, state sponsored famine with similar objectives should be specified as a crime against humanity.

Messer and Cohen (2009) note the widespread acceptance by the international community of the individual human right not to starve. They observe that the right to food is an economic right, interconnected with the right to land, work, income, and a just economic order. Consistent with Sen's analysis that links food security with democracy, Messer and Cohen assert that "country case studies across the developing world demonstrate that those denied civil liberties suffer disproportionately from social injustices and material deprivations, including food insecurity, hunger-related disease, malnutrition, and preventable child mortality" (2009). Messer and Cohen connect freedom of speech, a free press, and freedom of assembly (i.e. the pillars of democracy) with the protection of economic rights, including the right not to starve. According to them, food security is closely linked to democracy and good governance. The right to food has been adopted as a universal human right by the United Nations. Article 25 of the Universal Declaration of Human Rights (adopted in 1948) states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 8 of the Rome Statute stipulates that the ICC has jurisdiction over war crimes committed as part of a plan or policy or as part of a large-scale commission of such crimes. War crimes entail grave breaches of the Geneva Conventions, including willful killing, torture or inhuman treatment, and willfully causing great suffering or serious injury to body or health. War crimes also encompass other serious violations of international laws, including "intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival" (United Nations, 2000).

Similarities exist between war crimes and willful negligence or the intentional implementation of formal policies that can reasonably be ascertained to lead to famine, with the end result of mass starvation, disease, and death to a particular group. Thus, if atrocities committed during war and other human rights violations are criminal, then it stands to reason that politically induced famine as a means of annihilating a group should also be criminalized. A government or group intent on carrying out acts of genocide will more likely do so irrespective of war or peace and will use whatever mechanisms it has at its disposal if the international community chooses to ignore it. Famine has been employed as such a mechanism and will continue to be used as such until such acts are criminalized and efforts are made to bring perpetrators to justice. State actors in Darfur, Ethiopia, and the Ukraine have used famine with the intent to destroy, in whole or in part, particular national, ethnic, racial, political, religious, and other groups. As genocide is a recognized crime in international law, it follows that famine as a means of perpetrating genocide should also be codified as criminal. Orchestrated state policies that engender famine with the aim of exterminating a particular sub-group is a crime against humanity and should be classified as such under international law. Edkins (2000) cautions that one cannot assume that the international community would fight against famine if it only knew how to. She conceives of famine as a crime and argues that governments and the international community should be held responsible and subject to sanction for allowing famine to occur.

There is a dearth of literature which directly opposes the codification of famine as criminal. It has been argued, in contrast, that famine should not be considered a crime, given the political and legal difficulties in defining and codifying what constitutes famine. Arguments of prosecutorial mechanisms have also been raised. The political and legal disagreement in defining what constitutes famine is important and should be given serious consideration, as it determines response to the crisis and accountability for perpetrators. Howe and Devereux (2004) note that the lack of an agreed upon definition makes it difficult to advocate for the criminalization of famine and to impose accountability for violations of the right to food.

Lack of conceptual clarity is due in some part to technicalities of definitions, including, for example, questions such as: What is the level of mortality that has to occur before a food crisis is considered as famine? Lack of clarity also includes the construction of typologies of famine, the identification of perpetrators, and the determination of intentional state orchestration or authorization. De Waal (2008) notes that in the 1980s, people in the Darfur region made the distinction between famine that kills and famine that does not kill but that results in social breakdown and destitution. Howe and Devereux (2004) contend that ambiguous usages of the term famine have had tragic results for response and accountability in recent food crises. They argue that lack of consensus defining famine has contributed to delayed interventions and inequitable distribution of resources in areas of need. According to them, “Governments and agencies with national responsibility for famine prevention have often exploited the ambiguities in the term to contest whether a famine has occurred, thereby evading even limited accountability for their actions—or inactions” (p. 355). They thus propose an instrumental definition of famine using intensity and magnitude scales.

Limitations in codifying famine as crime also include the scope of actions considered to be faminogenic. There are no generally accepted criteria of what rates of malnutrition or mortality indicate the onset of a famine (Howe & Devereux, 2004). The Sphere Project is a voluntary consortium of humanitarian agencies that attempts to set internationally recognized common principles and minimum standards of humanitarian response to complex emergencies that can be applied universally. The Sphere Project (2004) shows similar lack of consensus in defining and establishing thresholds for moderate and severe malnutrition among population groups (children over five years old, adolescents, working age adults, and elderly people). Political differences exist, but the international community cannot afford to give up attempting to bridge these differences. These concerns are legitimate and deserve more detailed reflection.

An important argument against criminalizing faminogenic practices is that states may be unwilling to enter into such legally binding frameworks (Marcus, 2003). Similar arguments were advanced before the creation of other international frameworks. Marcus notes that codifying famine as crime may result in some potential donor states’ refusal to provide aid to starving populations with the justification that to do so would be equivalent to aiding criminal governments. It can also be noted that the international community continues to provide humanitarian aid through NGOs in places where there is no single central government and places with no semblance of governance. De Waal (2008) also cautions that the criminalization of famine would further hinder humanitarian operations, as perpetrating states often refuse to grant access to relief workers. Despite political and legal complexities, we argue that the criminalization of faminogenic practices has the potential to save lives and that it is the responsibility of the international community to protect those at the margins of society whose human rights may be trampled on.

Conclusions

This paper argues for the codification of willful famine as a crime against humanity. The subsequent prosecution of perpetrators who engage in faminogenic practices is more likely to deter future offenders and prevent famine. The attribution of famine to events in nature such as low levels of rainfall, drought, deforestation, desertification, and climate change minimizes state policies that push these events into the levels of complex emergencies. Famine should be viewed as state crime when ensuing human rights violations result from the state's deviance from internationally recognized statutes (Green & Ward, 2004). Acts of state deviance that exacerbate the impact of famine and other natural disasters on vulnerable populations include practices of political corruption, government negligence, and post-disaster cover-ups.

Willful famine has not been formally criminalized, although international laws exist that prohibit the starvation of civilian populations during conflict. Precedent has been established in which famine can be considered criminal and legal codes determined. As famine is "a particularly virulent manifestation" of starvation (Sen, 1981, p. 40), it should likewise be prohibited by international convention if intentionally inflicted as a weapon of war or as a deliberate policy of a government to exterminate a particular population. If famine is merely attributed to natural causes, with states unaccountable for willful negligence and malfeasance, then human misery caused by state criminality will remain unabated.

Humanity may not be evolving in its physical attributes in a way that is perceptible to the naked eye (the way that evolution is illustrated in textbooks showing images of pre-historic man to modern man). However, the evolving intellectual capacity of the human species, made evident by ingenuity and technical innovation, has dramatically revolutionized our environment, be it for the advancement of or the destruction of said environment, especially in the past 100 years. Humans have mastery of various acts in diverse fields and are no longer passive spectators of local or global events. The capacity to alleviate mass starvation is within our reach. Yet some would willfully choose to apply the weapon of famine for political purpose. Such violence committed against a population anywhere should never be tolerated and should be criminalized.

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