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Rubin, Olivier

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Olivier Rubin

Professor (MSO)

Department of Social Sciences and Business

Roskilde University

Affiliated with the Copenhagen Center for Disaster Research (COPE)

Email: rubin@ruc.dk

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Abstract:

This paper revitalizes the debate of an ethics of contemporary famine. Famine constitutes a distinct development challenge that has only received moderate public and academic attention. Singer's Famine Relief Argument from 1972 emphasizing a strong obligation of charitable benevolence towards victims of famine, for example, continues to constitute the dominant ethical principle of famine. The paper argues this revisionary principle still constitutes a strong and convincing ethical argument. However, the dynamics of contemporary famine makes it necessary to expand this ethical obligation outside the realm of pure philanthropy. Concretely, the paper argues for the obligation of criminalizing famine and prosecuting the perpetrators of famine that have either callously allowed famine to unfold or have intentionally created and exacerbated the conditions for famine. While such an obligation is not void of ethical dilemmas, a famine ethics relying on obligations of charity as well as obligations of criminal prosecution constitutes a superior ethical principle for the alleviation of famine.

Famine Ethics

Introduction

Famine continues to haunt the world. Approximately a quarter million people perished in the 2011 Somalia famine, and in 2017 the UN formally had to declare a famine once again, this time for the northern-central parts of South Sudan (Checchi & Robinson 2013; UN News 2017). Despite these recurring incidents, I argue that famine has not received the kind of public or academic attention that it deserves. As a case in point, the Sustainable Development Goals (SDGs) are conspicuously silent when it comes to the elimination of famine (UNDP 2019). No targets address this most extreme and absurd manifestation of humanitarian apathy where hundreds of thousands of people succumb to starvation and death despite an abundance of food in the world. The limited attention to famine is also evident in ethical debates. Singer's Famine Relief Argument from 1972 – emphasizing a strong obligation of charitable benevolence towards victims of famine – still appears to constitute the dominant principle around which scholars position themselves by either criticizing the principle or pointing to its continued relevance. I argue that there is a need to reengage with famine ethics. While some version of Singer's Famine Relief Argument still appears to be a sound moral principle, I will refocus the ethical debate in the light of recent developments in famine research where legal scholars have been particularly active in advocating for the criminalization of famine. My main argument is that famine ethics need to extend beyond obligations of charitable benevolence to include obligations of prosecuting famine crimes.

The paper is structured as follows. First, the analytical difference between investigating famine and investigating hunger is laid out, and it is argued that an ethics of famine is likely to be distinct from food (security) ethics. Second, the paper makes the case that famines in this century have not received much attention neither in the public discourse nor in academia. In that sense, famine almost rivals hunger as a silent emergency. This also holds true for philosophical discussions where famine ethics is still primarily rooted in Singer's Famine Relief Argument (Singer 1972). The paper continues by discussing the validity of this principle, arguing that the changing dynamics of contemporary famine necessitate going beyond this moral principle of charitable benevolence. One major recent contribution to famine research that carries substantial ethical implications is the argument for the criminalization of famine. The paper concludes by discussing the ethical arguments for including the obligation of famine criminalization in an ethics of famine.

The Distinctness of Famine

When contributing to a special issue with a focus on food security and hunger, it appears particularly pertinent to emphasize how famine constitutes a distinct humanitarian challenge that cannot simply be absorbed in studies of hunger and food security. Hunger usually refers to the prevalence of undernourishment in a population where the dietary consumption is less than the minimum energy requirements deemed necessary for a healthy life (usually 2.100 calories/day) (IPC 2012; FAO et al. 2017). A state of chronic hunger can persist for years and might lead to child stunting and wasting, inhibit cognitive development, increase infant and maternal mortality, and increase susceptibility to infectious diseases (Martins et al. 2011). Famine, on the contrary, is most often understood

2

as an idiosyncratic event identifiable by a sudden excess in mortality caused by mass starvation and diseases; an understanding shared by most scholars of famine (Sen 1981; Howe & Devereux 2004; Devereux 2007; Ó Gráda 2009; De Waal 2018). The important academic debates in famine research relate to the dynamics of famine: what are the main causes and processes behind such an extraordinary spike in mass starvation? Although scholars of famine have somewhat diverging explanations on the causes of famines, there is consensus that these explanations differ from those causing chronic undernutrition and hunger. There are *qualitative* differences between studies of famine and studies of hunger. Hence, ethical considerations regarding the alleviation of chronic hunger and improving food security cannot be directly translated to an ethics of famine. Famines are much more closely related to complex emergencies and protracted disasters than they are related to chronic hunger. In his most recent monograph on famine, De Waal (2018) explicitly emphasizes the need to distinguish famine from (chronic) hunger and malnutrition, arguing instead for a closer association with mass atrocities. Similarly, Banik (2010: 224) also emphasises the need to "distinguish between acute (famine) and chronic (endemic hunger) forms of deprivation and our responses to these." Famines, therefore, should not be understood as the final cataclysmic outcome of a linear trajectory characterized by continued deterioration of a country's nutritional status but as a synergistic outcome of complex, long-term and short-term, indirect and nonlinear socio-political dynamics (Howe, 2018; De Waal, 2018). The flipside of this decoupling is that the ambitious SDG goals (UNDP 2019) – aiming to improve productivity and income for small-scale farmers, ensuring equal access to land, implementing sustainable food production practices and increasing assistance to the agricultural sector – might drive down levels of undernutrition

3

but might not suffice for the eradication of famine. The close association of famine with complex emergencies and even pogroms will be subject to greater scrutiny later in the paper. Empirically, the dissociation between hunger and famine can be exemplified by looking at global trends. More than 800 million people still suffer from chronic undernutrition. This level has remained relatively stable (and lately slightly increased) throughout this century (FAO et al. 2017). The most recent UN report (FAO et al. 2019) even talks about a reverting trend after 2015 from a steady decline for decades to a slow increase in the number of people who suffer from hunger to an estimated 820 million people. Contrast this to the fact that only around 20 million people today are considered vulnerable to famine (U.S. Mission to the UN Agencies in Rome 2017; Mercy Corps 2017). Famines have gone from being a recurrent threat in most developing countries to being restricted to small enclaves in the developing world – mainly in fragile states in Sub-Saharan Africa (Ó Gráda 2009; De Waal 2018). Unfortunately, this is not the case with hunger, which remains endemic across most regions even in the face of a general increase in development: the undernutrition prevalence rates stand at 20 percent in Sub-Saharan Africa, 15 percent in South Asia, 8 percent in the Middle East and North Africa, and 7 percent in Latin America and the Caribbean (World Development Indicators, 2018). There are fewer famines today and less people succumb to them than at any other time in modern history (both in relative and absolute terms) (Rubin 2019). This, of course, does not diminish the catastrophic impact of any one famine. The 2011 Somalia famine constitutes one of the most lethal disasters of the 21st century. It does, however, suggest that the eradication of famine does not necessitate great strides human development or putting an end to chronic hunger. Amartya Sen makes the point that famines are in fact extremely

easy to prevent from a policy perspective (Sen 1995: 7). Preventing famine demands such a limited redistribution of resources in a contained period of time that even very poor nations should be able to lift the burden, not least when aided by international humanitarian organizations. More than twenty years ago, De Waal made the ethical argument that there has been no excuse for famine for almost a century (De Waal 1997: 7). Ethically, this only places an additional premium on the eradication of famine: we could essentially eradicate famine without necessarily having to solve the problem of chronic hunger and extreme poverty. Famine should evoke a moral response that is more direct and compelling than the ethical arguments in favour of development assistance (Thompson 2010: 209). Part of the explanation for our failure to eradicate famine can be ascribed the limited attention to famines.

Famine – A Whispering Emergency

The over 800 million people suffering from daily hunger is a silent catastrophe and the belated progress in this field is a stain on otherwise impressive humanitarian achievements during the last two centuries. However, this paper will present evidence to suggest that full-blown famines can almost rival hunger emergencies in terms of deficiency of international attention. Sen has famously argued that governments in democracies primarily react to famines because of their high visibility in the media and public discourse (Sen, 1999). Thus, politicians have incentives to react promptly to sudden famine disasters where fatalities are concentrated in time and space in contrast to low visibility challenges such as widespread hunger. This, according to Amartya Sen, would help explain why India has successfully alleviated famines since independence in 1943, while still being tormented by

5

multiple starvation related deaths each year. India has effectively prevented large-scale famine for more than 75 years but still has the largest number of hungry people in the world (Banik 2016). The strength of the link between democracy, media attention and famine mitigation has been subject to some debate (Rubin 2009a; Plümper & Neumayer 2009; Burchi 2011). In general, there appears to be some evidence that portrayal in the media impels politicians to react to mitigate the suffering from disasters (Boin et al. 2005; Kahn 2005; Flores & Smith 2013). This is good news since disasters are usually very visible in the media. As a case in point, the 2017 event that gained the most global readership of online news in a single day was Hurricane Irma (Economist 2017). The problem with famine is that it is one of the most overlooked disasters. If hunger can be characterized as a silent emergency, then famine constitutes nothing more than a whispering emergency. The whisper of famines builds on two pieces of empirical evidence.

The first relates to the public interest in famine. Consider the 2011 Somalia famine as an example. It was the most lethal disaster of the 21st in a single country: 260.000 people perished in matter of weeks (Checchi & Robinson 2013). That number of fatalities eclipses some of the worst natural disasters in this century such as the 2010 earthquake in Haiti (with an estimated 220.000 fatalities) and the 2004 Tsunami that hit Indonesia (with an estimated 165.000 fatalities) (EM-DAT 2019). To proxy for global public interest in the famine relative to other disasters, the paper draws on data from Google Trends, which measures the usage of key search terms relative to other select key terms (Google 2018). Figure 1 compares the 2011 Somalia famine with four other major disasters from 2008 onwards: the 2008 Sichuan Earthquake, the 2010 Haiti Earthquake, the 2011 Japan

6

Tsunami, and the 2015 Nepal Earthquake. Figure 1 illustrates that the relative interest in the Somalia famine is negligible, accounting for only 0.5% of the most searched disasters in the period, namely the concurrent 2011 Japanese Tsunami.[1] In fact, famine is dwarfed relative to any other generic disaster search term I could think of such as flood, earthquake, tsunami, hurricane, volcano, pandemic, avalanche, storm or cyclone. Assuming some relationship between public interest in a given disaster and google search terms related to that disaster (google accounts for 90 percent of searches worldwide), the global public attention to famine disasters is indeed limited.

--- Insert Figure 1 ---

One might argue that while famines may not be highly visible globally, they might define national public discourses to a much greater extend. However, contemporary famines tend to occur in states that censor media and public debate (North Korea) or in fragile states where the media and state institutions are weak or non-existent (South Sudan and Somalia). This also holds true for countries currently vulnerable to famine: Yemen, Syria and Nigeria (WFP 2018). Thus, it is often left to the international community to warn and gather information about impending famines. Even in the relative free country of Niger, it was left to a non-governmental organization (Doctors without Borders) to warn about the impending famine in 2005 and to advocate for extensive interventions to mitigate its impact (Rubin 2009b). With unfertile conditions for national public debates and investigative journalism in most famine prone countries today, the seemingly limited global public interest in famines becomes even more alarming.

The second piece of evidence rests on limited academic interest in famine. To proxy for academic interest, the paper applies an updated version of Rubin's (2019) measure of academic interest. The academic interest is proxied by the annual average Web of Science Social Science Citation articles that have referred to a specific disaster in their title/abstract/keywords, counting from a year after the disaster until the most recent full year (in this case 2017). The graph below has juxtaposed the fatalities for six major disasters in the twenty-first century (red columns, right axis) with the average annual number of articles in the Web of Science (blue columns, left axis).

--- Insert Figure 2 ---

The discrepancy between scholarly interest in the 2011 Somalia famine and fatalities is striking. A meagre annual average of 2,5 articles have been written on one of the most lethal humanitarian catastrophes in the twenty-first century whereas the academic articles published on Hurricane Katrina exceed that of all the other five disasters *combined*. This suggests that attention to famine is negligible even in academic circles. This also holds true for the academic field of ethics. Not many papers have been published on famine after Singer's famous article *Famine, Affluence, and Morality* from 1972 and most have been moderately cited.[2] The contributions have mostly taken offset in Singer's Famine Relief Argument, and largely positioned themselves as either followers or critics of the moral principle. It thus appears pertinent to re-engage with Singer's influential Famine Relief Argument when devising an ethics of famine.

Singer's Famine Relief Argument

Peter Singer has famously coined the Famine Relief Argument where the obligation of saving a child from drowning in a shallow pond is equated with that of displaying considerable charitable benevolence to the victims of famine (Singer 1972). While most would agree that it is virtuous to aid victims of famine, Singer emphasizes an *obligation* of charitable benevolence. The 1971 East Bengal humanitarian crisis caused Singer to wonder why affluent people throughout the world appeared to be unresponsive to the suffering. He developed the following analogy: "If I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull the child out. This will mean getting my clothes muddy, but this is insignificant, while death of the child would presumably be a very bad thing" (Singer 1972: 231). Why, Singer then asked, would most people help the drowning child without hesitation while not feeling obliged to provide the same help in other situations of life and death? For Singer, there was no moral distinction between aiding a drowning child in the local pond and aiding a starving child in East Bengal. He therefore constructed the much-cited Famine Relief Argument: "if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it" (Singer 1972:231). The principle provides a strong case for the obligation of aiding victims of famine, because so little must be sacrificed so that others can live. Whether the analogy is a drowning child in a pond or a child about to be smashed by a runaway train, Singer's basic argument for a moral obligation of charitable benevolence has remained the same for the last forty-five years (Singer 2009; Timmerman 2018).

Two main types of objections have been forwarded against Singer's Famine Relief Argument: one that accepts the premise of an ethical obligation to aid the victims of famine but questions the extent of philanthropy, and another that questions whether there actually is an ethical obligation to aid victims of famine.[3]

Several scholars have argued not against the moral obligation of aiding victims of famine but against a too demanding call for charitable benevolence (Otteson 2000; Kuper 2002; Cullity 2004; Swanton 2009; Timmerman 2015, 2018; Seipel 2016). Their basic intuition is that asking people to sacrifice to a point where the marginal utility value of the next sacrifice would make them worse off than the recipients goes against commonsense morality and would constitute an ethical principle that very few people would actually meet. Otteson argues (2000: 200) that "a moral position that makes a father immoral for buying his daughter a ribbon for her hair so stretches the limits of common moral intuition as to suggest a reductio ad absurdum." Kuper (2002) touches on the same weakness when arguing that the real-world situation would resemble a situation in which Singer would walk past a pond of fifty children close to drowning each day. His life would quickly need to be turned into that of a lifeguard rather than that of a philosopher, which would not appear morally just; neither for Singer nor society at large. Timmerman (2015) reiterates that Singer's analogy should rightly be based on many drowning children, in which case it would be morally permissible to let a child drown on occasion to pursue other experiences in life that do not involve constantly saving children. Similarly, Swanton (2009) addresses the problem of limitless demands (drowning children) in the confinement of the human

psyche. She argues that moral demands should "not tax our strength to the point where the self wits away, we neglect our children and loved ones, we ignore ethics altogether as an everyday and pervasive phenomenon in favour of self-interest, and resentment becomes rife" (Swanton 2009: 122). Cullity (2004) presents an interesting circular line of reasoning where Singer's extreme demand on moral duties actual undermines his own argument. Singer's ethics short-circuits when people generally do not live lives where the pursuit for own fulfillment is completed abandoned in order to help others. Ergo, if it is wrong to live a life that is not altruistically focused, then there cannot be good reasons for helping a person achieve such an immoral life (Cullity 2004: 137). In short, the Famine Relief Argument produces too many immoral individuals to retain any proper moral meaning. Based on Singer's Famine Relief Argument, for example, one can devise an argument against having children because the foregone costs of raising children can be better spent on famine relief (Rachels 2014).

Singer has subsequently forwarded a weaker ethical principle that leaves out the comparable perspective, and just states that one should give to the point where one would sacrifice something of moral significance (Singer 2007). Similarly, Cullity (2004) suggests a moderate demanding morality based on an aggregate approach where the cost of aiding others is considered cumulatively (rather than marginally). This would entail sacrifice that "each of us could make without depriving our lives of worthwhile achievement, enjoyment, close personal relationship, community involvement, understanding, integrity, or autonomy to any significant degree" (Cullity 2004: 186). In a famine context, such revisionary duty of charitable benevolence would easily meet the funding requirement for

famine prevention. The combined funding gap for all the humanitarian appeals during the 2011 Somalia famine, for example, amounted to 460 million USD (OCHA 2011). The World Food Programme estimates that 2.8 billion USD is needed to effectively aid the 20 million living on the brink of famine (WFP 2018). That is less than half a percent of the wealth held by the 10 richest people in the world (Forbes 2018).

Other scholars have questioned whether there really is an obligation to aid victims of famine (Goodin 1998; Currie 2000; Kekes 2002; Miller 2007; James 2007). While most would agree that it is virtuous to aid victims of famine, they question whether there is a moral obligation to do so. The basic argument is that Singer's cosmopolitan moral codex should be replaced morals that are dependent on context. One implication of living in specific moral contexts is that we feel more inclined to help people in our immediate sphere of social relations. Goodin (1988) differentiates between *general duties* that we have toward other people and *special duties* that we have to those in a special relation to us. Miller (2007) also claims that we should allow diverse moral principles to hold in different contexts; not least for pragmatic reasons since nation-states are still the prime engines of distributive justice. In his 2000 monograph on famine and hunger, Currie also argues that "although we might subscribe to a general Good Samaritan law that transcends national, ethnic or legal borders, the boundaries of the political community remain significant in that general moral duties that humans hold to confront human suffering hold extra weight to those within their own polity" (Currie 2000: 50). James (2007) introduces the concept of *unique dependency* to draw a distinction between aiding the child in the pond and saving famine victims from starvation. The difference, James argues, is to be found in the

relationship we have with those in need. In Singer's analogy, there is a determinate individual relying on you (and only you) for survival, while such a relationship is absent in Singer's famine relief argument. Humanitarian relief efforts fail to establish a unique dependence, because assistance is mediated through relief organizations. While Singer seeks to equate the two situations, James points to the fact they are distinct: the pond case calls on the action of the Good Samaritan, while the distant suffering from famine calls on the assistance of the Good Humanitarian.

Singer has countered his critics by asserting that the Famine Relief Argument should not appeal to whatever is the current practice of beneficence. Behavioral studies, for instance, indicate that we are inclined to be much more generous towards identifiable victims (child in pond) compared to more faceless statistical victims (famine victims) (Small et al. 2007). This, of course, does not make it ethically just. While we might have an evolutionary inclination to help members of our own group/tribe or focus on identifiable sufferers, Singer argues (2007: 480) that "a practice that evolved under different conditions has no normative force for us today". We are therefore faced with a stalemate situation where "followers of Singer insist upon revising our intuitions in order to shield their principle from logical refutation" while "critics of Singer argue that we should revise the principle in order to protect our intuitions." (Siepel 2016: 98). To break this stalemate in the context of famines, one can just assume, for the sake of argument, that Singer's moral principle of charitable benevolence should hold stronger for citizens close to the atrocities. Banik advances the ethical standpoint that "if we agree that radical inequalities in local society are one of the major explanations for the creation and continuance of human deprivation,

13

then one can place additional emphasis on the proximity factor and thereby argue for enhanced moral responsibility of local elites" (Banik 2010: 242). Today, most poor people live in middle-income countries amid wealthier classes (Sumner 2012). In a famine situation, limited redistribution nationally would in most cases suffice to prevent people *en masse* from dying of starvation. Thus, limiting the extent of sacrifice and narrowing down the number of people faced with a moral obligation of charitable benevolence still produce revisionary ethics of famine that exceeds current levels of philanthropy multifold. The real question is whether charitable benevolence is sufficient to alleviate famines. The following will argue that we need to pursue other ethical principles as well.

The disconnect between Singer's ethical analogies and the contemporary famine discourse

The philosophical semantics surrounding the Famine Relief Argument often draw heavily on analogies. Singer's own child in the pond is the most notable. Other scholars have suggested alternative analogies that illuminate their own moral principle in relation to Singer's, but rarely have ethical debates reflected on the implications of the general use of analogies. Unger (1996) sets out to support Singer's famine relief argument using more than fifty analogies, starting with an analogy of whether one should write a lifesaving check to UNICEF. Similarly, Timmerman (2015; 2018) also relies on many analogies in his defense of a weaker version of the Famine Relief Argument where he articulates the dilemma between saving several drowning children or spending time in the theater. The purpose of the analogies and metaphors used by Singer, Unger and others is not only to illustrate a point but also to generate a contextual shift that provides support for their ethical

principles. Singer's argument that we are morally obligated to aid famine victims is not difficult to grasp conceptually, and there is really no need for illustrative examples – with the recent famines there are enough examples in real life – if not for setting a context in which ignoring the child would be blatantly amoral. The persuasive power of analogies can only be admired: Singer's pond analogy has surely been a strong driver for altruism. My claim here is merely that these gains come at a price, as they remove the ethical principles from the empirical phenomena to which they relate. One could risk working with an ethical premise that does not necessarily mirror present empirical dynamics. Analogies suffer from two limitations: they dislodge the ethical arguments from their empirical foundation, and they are inherently static. Therefore, while the philosophical discussions themselves display much dynamism, raging back and forth, they still implicitly or explicitly refer back to the original analogies. This makes it difficult to capture the extent to which famines have changed over time. Today, there might be a need to reconnect the ethical arguments to the dynamics of contemporary famine.

Singer's Famine Relief Argument built on an optimism shared by many at that time that famines could be eradicated by acts of philanthropy. This is probably best exemplified by Bod Geldof's 1984 massive Band Aid charities for victims of the Ethiopian famine. But the optimism also extended to academia. One of the most acknowledged famine frameworks at that time, the entitlement approach, clearly viewed "famines as economic disasters, not as just food crises" (Sen 1981: 162). As such, they could be remedied by economic redistribution. Indeed, many of the famines in the 1970s took place inside relatively functioning state structures and were primarily economic in nature. The 1974

15

Bangladesh famine, the 1972-1974 Ethiopian famine and the 1971-74 Sahel famines all unfolded in the absence of institutional collapse, violent internal conflict and political control (Sen 1981). Today, however, fragile institutions and violent conflicts have been the primary causes of the 2011 Somalia famine, as well as the 2017 South Sudanese famines (Heaton, 2012; Maxwell & Fritzpatrick, 2012; Fergusson, 2013; De Waal, 2018). Analysing the North Korean famine in the 1990s, the 2011 Somalia famine and the 2017 South Sudanese famine through an economic lens *only* appears to be insufficient. This implies that famine ethics should not only be concerned with charitable benevolence. This is also echoed in Cullity's (2004) call to pursue other efforts than humanitarian aid, "and to encourage the structures of political accountability that can counteract its worst effects" (Cullity 2004: 47). Similarly, Devereux (2007: 14) argues that "if famines are preventable social and political phenomena, rather than unavoidable natural disasters, the social and political actors and institutions should be held accountable for allowing famine to happen." In an everyday moral context, there is little doubt that ethnic cleansing is wrong. Nevertheless, the moral claim needs to go beyond calls for individual obligations of charity. In Singerian terms, it would difficult to prevent something bad from happening by sacrificing something of comparable moral importance, not because people are unwilling to do so (although this is regrettably surely also the case) but because there is no linear relationship between sacrifice and outcome. In a famine context, there is no transparent market exchange where inputs can be traded for a certain outcome; where twenty dollars can buy a life. Thus, there appears to be a rationale for an ethics of famine to also embrace the moral principles being followed when it comes to extreme violations of human rights,

including ethnic cleansing, pogroms and other types of political/religious killings and violence.

Consider the North Korean famine in the 1990s. The fact that a million people perished in North Korea during the 1990s due to famine is a humanitarian catastrophe (Haggard & Nolan 2007). North Korea experienced some substantial exogenous shocks that were both related to consecutive years of harsh climatic conditions as well as geo-political changes (with the dissolution of the Soviet Union and the wavering support of China). However, these exogenous triggers only turned catastrophic because of the government's long-time deficient agricultural policies, the reluctance to accept international famine relief, and the general misuse of aid and humanitarian assistance as balance-of-payment support for military and luxury imports (Haggard & Nolan 2007: 50; UN Human Rights Council 2014). This strong connection to politics means that famine mitigation should not only be a question of charitable benevolence but must also involve the actions of the North Korean regime (UN Human Rights Council 2014). When regimes purposely block or misuse aid, charitable benevolence becomes an impotent force for famine mitigation.

The 2011 South Somalia famine constitutes another example. While the whole Horn of Africa suffered from one of the worst droughts for sixty years, the famine itself appeared to only strike southern Somalia (the southern Bakool and lower Shabelle regions). Al-Shaabab, an extremist Islamic militant group controlling southern Somalia, actively and deliberately exacerbated the famine. Al-Shabaab only allowed a few humanitarian organizations access to the region, and they had to pay steep "registration fees" and had to

accept involving Al-Shabaab in all the distribution of food (Jackson & Aynte 2013: 16).

One of the most detrimental policy decisions by Al-Shabaab was prohibiting famine

victims to migrate from the affected area; cantonment camps were set up to imprison

people trying to escape Al-Shabaab territory (Ferris & Petz 2012). Al-Shabaab also used

the famine to increase people's dependence on the organization for survival. Volunteer

fighters were lured with promises of a piece of fruit every day, and the famine has been

described as "the most convincing recruiting sergeant of all" (Fergusson 2013: 176). The

relief agencies did in fact manage to raise funds at an unprecedented volume and speed

(Maxwell & Majid 2016; OCHA 2011). However, mitigating the suffering appeared more

dependent on whether the humanitarian agencies could actually gain access to the Al-

Shabaab dominated areas than it was dependent on the funding raised.

An Ethical Obligation of Prosecuting Famine Crimes

The dynamics of these recent famines have spurred a new interest in famine from legal

scholars who argue that famine should be treated as crimes against humanity, and that

perpetrators of famine need to be prosecuted through international law (Marcus 2003;

Howard-Hassmann 2005, 2016; DeFalco 2011, 2016; Aloyo 2013; Kearney, 2013; Sankey

2014; Duthie 2014; Malk, 2017). The concept of famine crimes was initially introduced by

famine scholars in the 1990s (De Waal 1993; Keen 1994) but has recently been revitalized

and refined by legal scholars. Marcus (2003: 248) was among the first legal scholars to

argue that "since famines are often functionally equivalent to genocide, it makes no moral

or legal sense not to extend the protections of international law to famine-prone

population." Drawing a parallel between famine and genocides, Edkins (2007: 152) posits

18

that famine 'is not so much a question of causes and solutions but one of responsibility, criminal liability, perpetrators, bystanders, victims and survivors.' DeFalco (2011) argues that leading members of the communist party in Cambodia (the Khmer Rouge) should be prosecuted for crimes against humanity based on the famine of 1975-79 which killed upwards a million civilians. He concludes that "courts and tribunals have avoided addressing the culpability of individuals who cause mass famines for too long, especially now that humankind has entered an era where such tragedies are entirely avoidable." He continues in a later piece by arguing more generally that "the creation or enforcement of famine conditions can often be accurately characterized as a widespread or systematic attack on a civilian population, making crimes against humanity a promising entry point for addressing general famine conditions outside the context of a targeted genocidal attack or armed conflict" (DeFalco 2016: 52). Howard-Hassmann (2016: 214) also proposes a new and distinct UN treaty to protect the right to food that should expand on the existing articles in the UN Genocide Convention and the Rome Statute of the International Criminal Court (ICC). These calls for famine criminalization, published mostly in international law and justice outlets, have begun to resonate in key international organizations and civil society organizations. One of the most comprehensive investigations of non-violent human rights violations, for example, has been conducted by the United Nations Human Rights Council with respect to the North Korean famine (UN Human Rights Council 2014). The Commission concluded that party officials had committed crimes against humanity by implementing actions, decisions and policies known to have led to mass starvation, death by starvation and serious mental and physical injury (UN Human Rights Council 2014: 339). No court, however, has yet entered a conviction for an international crime predicated explicitly on famine (DeFalco 2011; Howard-Hassmann 2016). The reason is that

19

expanding international law and the reach of the ICC to prosecute famine crimes is difficult. There is a growing consensus on the limits of criminal law and the legitimacy of the ICC among many African states (Roach, 2016; Niang, 2017). Hitherto, the ICC has opted to prosecute openly violent crimes that are most extensively and concretely referred to in the Statute's articles, and where the burden of proof is easier to lift.

Disregarding the questions of short-term practical feasibility, famine criminalization also faces challenges as an ethical principle. The important thing to note here is that it induces *other* moral dilemmas than do Singer's famine relief arguments. The ethical arguments for punishment have traditionally rested on two distinct ethical principles: a utilitarian perspective where punishment increases the general well-being in society and a redistributive perspective that primarily pursues justice and punish offenders for their wrongdoing. The presented legal arguments for criminalizing famine primarily rests on the utilitarian principle: punishment should discourage and deter the use of mass-starvation as an acceptable political or military strategy. The criminalization of famine (where famine crimes are prosecuted) should serve as a reminder to all leaders in the world that famine crimes will not be tolerated. Whether this will reduce the risk of famine is ultimately an empirical question. Naturally, merely prosecuting perpetrators of famine crimes will not lead to the abolishment of such abuses in the world. Two systematic empirical studies of ICC's ability to deter human rights violations do strongly suggest that the organization has a significant positive impact: both studies (using different proxies and analytical models) concluded that the ICC through various channels deters leaders from committing various atrocities (Jo & Simmons 2016; Appel 2018). If successfully integrated in the ICC,

therefore, it would not be unreasonable to suppose that famine criminalization will reduce

the risk of famine in the long haul. There might also be an educational effect of such treaties

that could influence the behavior of some states in certain instances (Howard-Hassmann

2016). An increased attention to and prosecution of famine crimes (the intentional use of

starvation against civilians is already prohibited in the Rome Statute; ICC 1998: articles 7

and 8), rather than having direct effects of deterrence through punishment, might lead to

more incremental changes of international norms to a point where ethnic or political

cleansing by famine is considered no differently than cleansing by means of direct

violence.

Famine criminalization introduces the need to distinguish between intent, misfortune and

incompetence as primary drivers for famine without the proper tools and insights to do so.

International criminal law often demands both *actus reus* (physical act) and *mens rea*

(intent) for prosecution. Article 30 of the The Rome Statute, for example, states that "a

person shall be criminally responsible and liable for punishment for a crime within the

jurisdiction of the Court only if the material elements are committed with intent and

knowledge." In cases of famine, the boundaries between *actus reus* and *mens rea* are

blurred due to the substantial temporal dimension in famine crimes.[4] A local official in a

province in North Korea during the 1990s might have acted negligent or incompetently

when crafting a set of policies that triggered mass starvation (*actus reus*). However,

according to existing international law the official can only be prosecuted when she, aware

of the consequences of her actions, continues to enforce policies that exacerbate famine

conditions (*mens rea*).[5] Short of clear pogroms, the exact eureka-moment when a person

realizes the error of his way within complex political systems with overlapping authorities is difficult to pinpoint, let alone prove in a court of law..

Famine criminalization also presents other ethical dilemmas. An obligation of famine prosecution moves responsibility from the individual levels (philanthropy) to the level of states and international organizations (prosecution). It puts into play the well-known moral dilemmas of the international communities' responsibility to protect human rights vis-à-vis states' rights to uphold national sovereignty. And famine criminalization introduces the ethical challenge of seeking to assign individual responsibility for a multi-causal catastrophe. By implication, assigning individual criminal responsibility for a famine means downplaying other potential underlying causes of famine such as broader socio-economic and geopolitical systemic factors. Even contributions that highlight the importance of the political level do not only highlight the importance of agency, but also political systems and structures at different levels (Devereux 2007; Rubin 2009a; De Waal 2018). Howard-Hassmann (2016) highlights the paradox of holding *states* responsible for protecting and promoting human rights but holding *individuals* responsible for their violation. Applying the lens of famine crimes to the 2017 famine in South Sudan, for example, appears to be too blunt an instrument to capture the dynamics of the myriad of underlying national and international factors that compounded to generate the famine. Imagine, for example, that the famine threatening situation in Yemen deteriorates into a full-blown famine. Prosecuting food crimes would emphasize individual liabilities for the famine, thereby ignoring the multidimensionality of famines caused by a plethora of cascading non-linear dynamics (Saudi airstrikes, Houthi insurgents, failing state

institutions, colonial legacy, salary collapse, geopolitics and so on). Without linearity, it is difficult to assign legal responsibility, but famines are often the outcome of non-linear synergistic interactions among different socio-political factors (Howe 2018). Hence, obligations of charitable benevolence as well as prosecution of famine crimes might not suffice to effectively alleviate famine. They are ill-equipped to address the deeper socio-political structural causes of famine. Still, an ethics of famine based on both these obligations stands stronger than one based on either one obligation, as they address key different dynamics of contemporary famines.

Conclusion – A Famine Ethics of Contemporary Famines

Famine constitutes a distinct challenge for humankind that has yet to be overcome. While famines continue to constitute a recurrent threat for vulnerable people in the most fragile corners of the world, they have been consistently overlooked in the global public discourse and in academic works. In that sense, the public disregard associated with famines can match the silent emergency of hunger. Attention to the ethical dimensions of famine also appears to have been negligible after Singer's groundbreaking Famine Relief Argument in 1972. This paper attempted to revitalize the debate of famine ethics by taking departure in the ethical discussion surrounding Singer's Famine Relief Argument but adding two important interrelated perspectives: (i) the dynamics of contemporary famine makes an exclusive reliance of charitable benevolence obsolete; and (ii) the recent calls to criminalize famine have injected new interesting ethical dilemmas to the debate. Consequently, the paper argues for a famine ethics based on two pillars of ethical obligations that could take the following form:

1. *An obligation of charitable benevolence* based on a weak version of Singer's Famine Relief Argument. An obvious concrete moral principle, inspired by Macaskill et al.'s (2018) *Very Weak Principle of Sacrifice*, could state that members of the middle-class ought, morally, to use at least 10 percent of their income to effectively combat famine and extreme destitution. This principle would still pose demands that by far exceed what are currently being honored. It would effectively close the financing gap for the key humanitarian agencies involved in famine prevention, and make certain that access to financial resources and logistical infrastructure is not the constraining factor for a world without famine

2. *An obligation to criminalize famine* and prosecute perpetrators that intentionally allow a famine to unfold. This obligation would help avert famines that cannot be easily remedied through philanthropy due to their link to malicious policies (what Marcus (2003) has coined *faminogenises*). While the direct discouraging effect on any one individual perpetrator of such famine crimes might be limited, getting states and international organizations to adhere to such principle would increase attention to famine and could help develop and cement norms for what is acceptable state behavior in situations of famine.

Conflict of interest statement

The corresponding author states that there is no conflict of interest.

25

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[1] The data does not distinguish between singular/plural or the chronology of words. Restricting the sample to news searches produces a similar outcome but with fewer observations. The use of English search terms, although a potential source for bias, cannot be responsible for the marked difference between famine and other types of disasters.

[2] In the period after Singer's influential article in 1972, only 19 articles in the *Ethics* category of the Web of Science's database mentioned "Famine Relief Argument" or just "famine" in the abstract/title/or the author keywords (if no author keywords were available, KeyWord Plus was applied). The impact of these articles

appears limited. While Singer's article has been cited 954 times (as of July 24, 2019), the average number of citations for the subsequent 19 articles was three.

[3] Naturally, these two categories do not cover all ethical objections that been waged against Singer's principle. Hardin (1974) argued that Singer's principle was downright immoral because it would lead to overpopulation and thus greater suffering. Keekes (2002) argued against the principle along the same lines by arguing that impoverished families are responsible for their own plight, as they should have realized the easily foreseeable consequences of having more children. Lastly, Jamieson (2005) rendered Singer's principle invalid due to a long litany of flaws with development aid and humanitarian interventions.

4 *Mens rea* thus captures both first-degree famine crimes of intent and second-degrees famine crimes of recklessly ignoring the consequences of implemented policies (see also Marcus 2003 and Howard-Hassmann 2016).

[5] Thanks to an anonymous reviewer on a previous version of a related manuscript for this argument.

Figure 1
Click here to access/download;Figure;Figure 1.docx ⬇

Figure 1: Google search terms for five major disasters, 2008-2018 June.
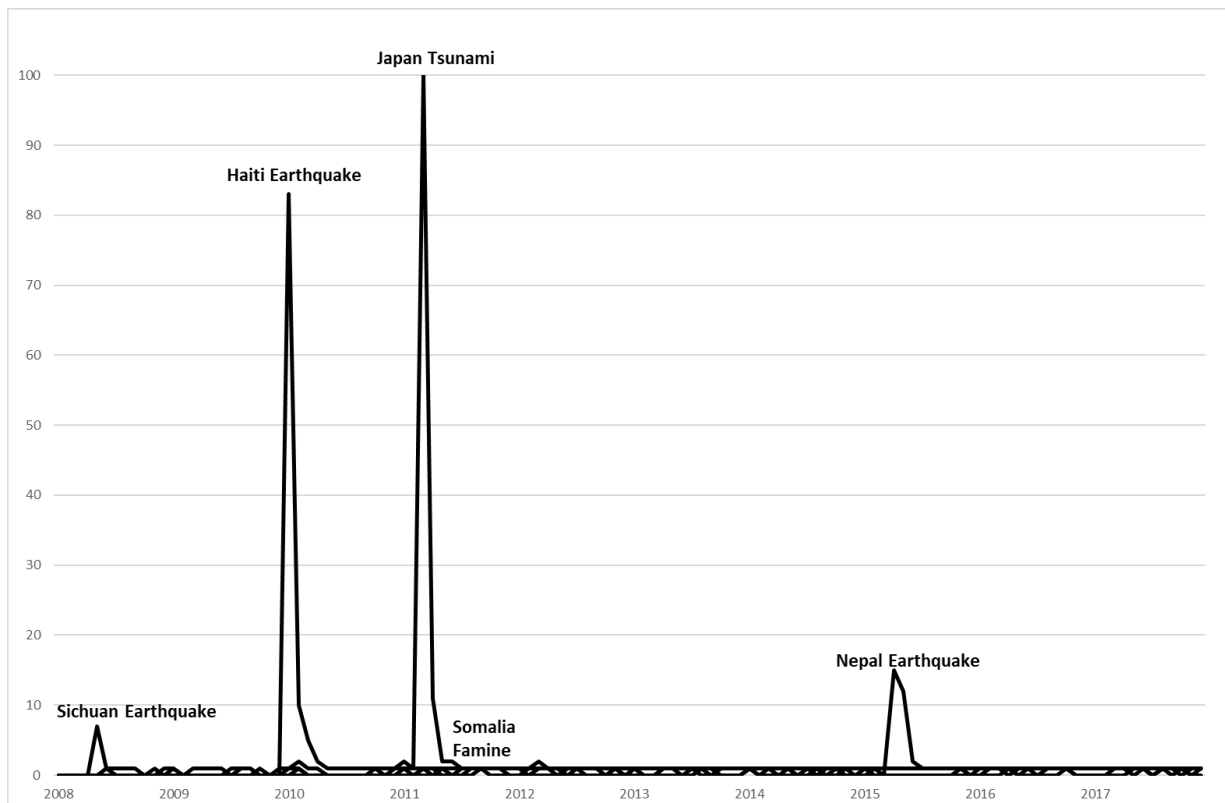
Legend: *The maximum score of 100 represents the highest number of searchers for a particular term at a given point ("Japan Tsunami" in March 2011). The other scores are percentages of this maximum search interest: Haiti earthquake ≈83%; Nepalese earthquake ≈15%; Sichuan earthquake ≈8% and the Somalia famine ≈0.5%.*

Source: *Google 2018.*

Figure 2: Juxtaposing average annual published academic articles with disaster fatalities for six major disasters, 2005-2015.
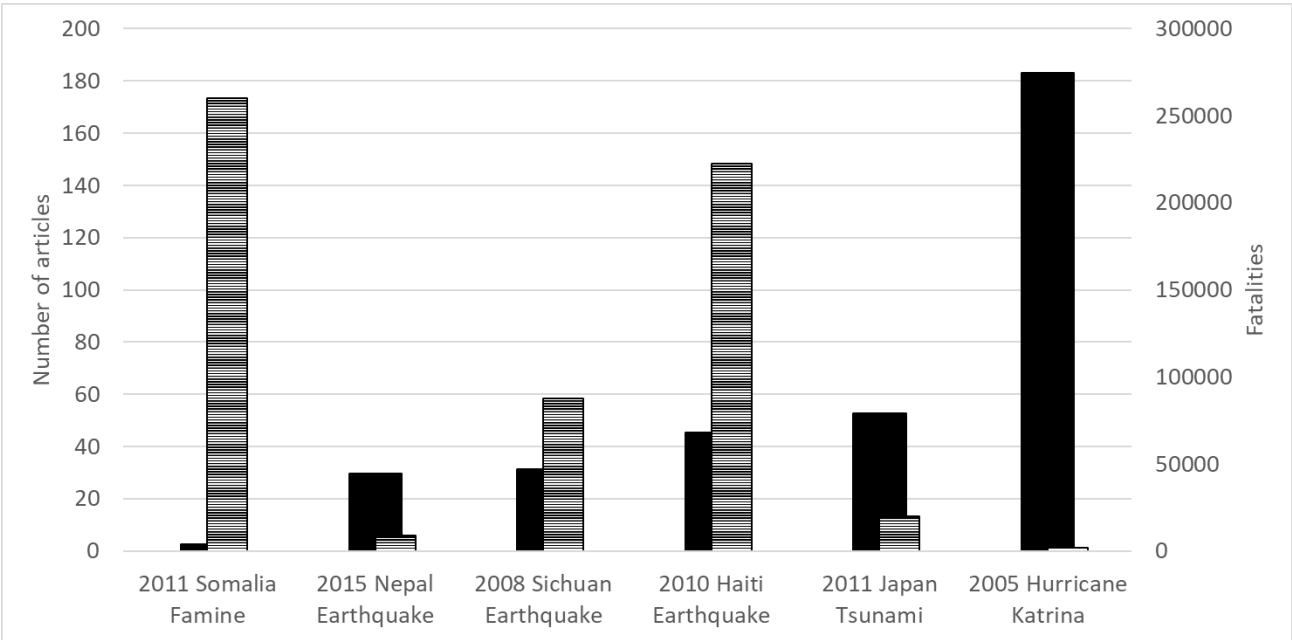
Legend: The black column expresses the number of fatalities (right axis), while the striped column refers to the average annual number of Web of Science articles that contained the specific disaster in the topic (left axis).

Source: Web of Science 2019; EM-DAT 2019.