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**When worlds collide:
Non-state actors, philanthropy, and the commercial promotion of fertility
control options in developing countries.**

Short running title: When worlds collide.

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When worlds collide: Non-state actors, philanthropy, and the commercial promotion of fertility control options in developing countries.

Abstract

Purpose

An ethical evaluation of the role of transnational philanthropic and commercial actors in the promotion and implementation of fertility control and family planning programmes in developing countries around the world. In particular, we consider the application, extension and association of collective and individualist ethical justifications to these actors. Our aim is to achieve a better understanding of the rights and obligations that different stakeholders might hold in this arena.

Approach and methodology

We use a critical theoretical lens to examine conventional ethical discourse and literature to develop a fresh conceptual understanding of the arguments applicable to philanthropic and commercial actors in the context of fertility control and family planning.

Findings

Whilst complex multi-stakeholder arrangements make ethical assessment challenging, caution ought to be exercised in the application and extension of conventional state-based justifications for fertility control or family planning to these transnational non-state actors. Collective justifications or interests cannot be automatically extended to cover the activities of these organisations and actors in this context. Potential conflicts of interest and inequalities in the power dynamics between stakeholders are all too apparent. The lack of direct accountability and transparency of action also raises questions about the building of philanthropic partnerships and the appropriate degree of state and international oversight. State and philanthropic/commercial interests are unlikely to be aligned when the transformative goals of the latter promote self-sufficiency and individualist agendas.

Originality

This paper contributes to ethical knowledge of and literacy in philanthropic activities in the arena of family planning, sexual and reproductive health and fertility control. It offers guidance for the evaluation of these contributions and the development of global philanthropic partnerships.

Keywords:

Philanthropy; philanthrocapitalism; ethics; promotion; justice; sexual and reproductive health.

Introduction

In 2020, there were 20 million more women with unmet need for contraception worldwide than there had been in 2000 (UN, 2020). By 2030, about 30% of women with unmet need for contraception will live in sub-Saharan Africa (SSA); during this decade there will be about 39 million new users in SSA. Currently, 55% of women in SSA use modern contraceptive methods and 37% have unmet need.

There are examples of large increases in demand satisfied by modern methods: Rwanda increased the figure from 14% in 2000 to 68% in 2020. However, generally, the need for products and services will be considerable during the next decade.

The world population now stands at 7.9 billion (Worldometer, 2021); it is projected by the UN to reach 10.9 billion by 2100 and by the Institute of Health Metrics & Evaluation to peak in 2064 at 9.7 billion and then to start to fall (Vollset et al., 2020). The world population growth rate peaked in 1968 at 2.1% and is projected to fall back to 0.03% by 2100. The rate of population growth is now falling in all regions of the world. However, growth rates in SSA are still mostly between 2 and 4% (Roser, Ritchie, & Ortiz-Espina, 2019). The world's total fertility rate (TFR) fell from 5.0 in 1964 to 2.5 in 2014 (Roser et al., 2019). In recent decades, many countries have experienced significant reductions in TFR; now, half the world's population live in territories with a TFR below 2.1. These reductions in fertility rates have occurred in countries that have and have not employed population control policies. The TFR for SSA is now 4.6 and is projected to come down to 1.7 by 2100; however, during this time the population will have tripled due to in-built momentum (Vollset et al., 2020).

Neo-Malthusians hold the pessimistic belief that unchecked population growth (currently 81 million net increase per year) will exceed the earth's carrying capacity, exhausting non-renewable resources, enacting tragedies of the commons and leading to overshoot and societal collapse (Boyle, 2015). The underlying assumption here is that by 'fixing' population growth or rebalancing the human population, many of the world's problems – especially in poorer regions – will be solved; problems such as poverty, environmental degradation, resource scarcity, migration, violent conflict and climate change. Cornucopians are population optimists who believe that the earth can support a much larger population, and that technological solutions to food production, pollution, and global warming will succeed in averting any catastrophes (Boyle, 2015). A third group, population neutralists, believes that population growth is neither inherently good or bad (Boyle, 2015). Political ecologists are population neutralists concerned with the relationships between society and nature; they scrutinise economic systems that plunder nature and pollute ecosystems as well as the role of social inequalities in determining access to resources.

One sociological viewpoint would be that the presentation of fertility control as the key to reducing birth rates oversimplifies the complex interplay of social, economic and cultural factors in demographic transitions to lower birth rates (Hartmann, Hendrixson, & Sasser, 2016). Over time,

states have moved away from explicit population control policies to an emphasis on development, regional growth, improved education and enhancement of sexual and reproductive rights. Some would claim that population control ideology is part of our troubled history; others assert that this paradigm shift has not been fully realised and that population control still exists in reality (Bhatia et al., 2020; Hendrixson, 2018; Sasser, 2018). A new global sustainable development framework is being promoted with pathways which integrate gender equality and social justice (Hartmann et al., 2016). Such a rights-based framework is founded on a non-negotiable commitment to the value of bodily autonomy (Wicks, 2016).

In this paper, we offer an ethical assessment of the role of transnational philanthropic and commercial actors in the promotion and implementation of fertility control and family planning (FP) programmes in developing countries. We do not focus on attempts to control migration or age distribution although these interventions may impact population distribution and growth. Our specific emphasis is on the activities of transnational non-state philanthropic actors: individuals, bodies or organisations that are neither individual states nor direct emanations of those states. We include entities such as The Bill and Melinda Gates Foundation (BMGF), The Howard G. Buffett Foundation, and The Giving Pledge Collective within this ambit. In many cases, these philanthropists work in partnership with private sector commercial providers, international organisations and state actors to develop and implement FP and sexual and reproductive health (SRH) programmes around the world (Bishop, 2013; Bishop & Green, 2015; Harvey, Gordon, & Maclean, 2021; McGoey, 2014). Sometimes, they will also help fund international organisations – for example, BMGF funds up to one-tenth of the World Health Organization (WHO) budget annually (Clark & McGoey, 2016).

For brevity, we will use the term family planning although contemporary focus tends to be on the broader concept of SRH. Our central aim is to examine the application, extension and association of ethical arguments to these philanthropic actors and to pin down their ethical relationships with state actors and the peoples that they purport to support and aid. We touch upon but do not conclusively address whether there is a broader ethical obligation to donate or use wealth to benefit the less well off or less developed.

Approach and methodology

Our research strategy involved looking for material freely available on the subjects of philanthropy, fertility control, family planning and ethics, or otherwise available through academic repositories and published in the English language. These sources included peer-reviewed journals concerned with the medical, sociological, ethical and legal aspects of philanthropy, FP, SRH, and fertility/population control, and related books, theses, government publications, publications by non-governmental organisations (NGOs), articles in the lay press and information from reliable internet sources. We focused on the period between 2010-2021 but earlier sources were thrown up in the course of our

research. We selected and filtered sources using abstracts (where available), before evaluating complete papers and other artefacts where they appeared to be relevant. We did not restrict our literature search to any single jurisdiction. Our primary focus was on sources linked to the fertility-related activities of philanthropic and commercial actors in less developed and low-income countries.

We have used a critical theoretical lens to examine, synthesise and analyse a wide range of sources to develop a fresh conceptual understanding of the ethical arguments applicable to philanthropic and commercial actors in the context of fertility control and family planning. This approach has enabled us to take a fairly broad perspective on the issues and the different ethical discourses; highlight points using relevant contextual examples of philanthropy in action, and offer practical and linked proposals for the future formation and oversight of philanthropic collaborations and interventions. This paper contributes to filling the acknowledged gaps in the ethical underpinnings of elite philanthropy (Maclean, Harvey, Yang, & Mueller, 2021).

Geographical focus

Our geographical focus is on the activities and interventions of philanthropists within less developed regions of the world, and specifically, those countries that fall within the Low Human Development Index (HDI) classification (UNDP, 2020). These type of countries are prevalent in SSA and tend to have high fertility rates, especially in rural areas, with an average TFR of 4.01 (Harper, 2019). Although these countries have relatively high morbidity and infant mortality levels, significant human population growth continues in these regions. Inconsistent family planning arrangements, economic deprivation, limited education and health provision, gender inequalities and other factors contribute to this continuing state of affairs.

Taking the case of SSA: contraceptive prevalence in this region is the lowest in the world (UN, 2019). Vasectomy is virtually never seen; female sterilisation uptake is the lowest in any area and intrauterine device use is the lowest in any global region by far. However, subdermal implant use is taking off at a rate higher than in any other area (UN, 2019). Injectable use has been the highest for years and is accelerating faster than anywhere else (UN, 2019). The covert use/concealability of injectables is a feature that may help explain this distinct pattern of contraceptive use (Adetunji, 2011). Self-administration of contraception is a definite advantage in areas with limited healthcare provision (WHO, 2019). Donor and private sector activities have helped shape this landscape and the modalities of contraceptive service delivery (Countdown 2030 Europe, 2020).

The rise of the philanthropist

In recent years, we have seen growing activity by philanthropists in these areas of the world, whose numbers and spending are increasing (McGoey, 2014). Common features include transnational activity in low HDI countries; coordinated private donation and funding programmes by the wealthy;

technological innovation; market-based solutions; and the use of collaborative private/public sector partnerships to deliver outcomes. Philanthropic foundations are generally only accountable to their trustees or commercial partners, whereas state governments are accountable to their citizens. There is some evidence that philanthropic actors are showing broader engagement in politics (Bishop, 2013; Maclean et al., 2021). In some areas of global concern, these entities have supplanted or displaced the roles traditionally performed by state actors (Bishop & Green, 2015). These developments might have been precipitated by past state failures or the increased willingness of states and international organisations to engage with philanthropists and the commercial sector in global concerns (Bishop & Green, 2015). Others have suggested that philanthropy has influenced, compelled or deflected state spending and support towards the private sector (McGoey, 2014). Either way, we would observe that these entities are a diverse and varied grouping – from the family/ regional entity to the global commercial foundation (Maclean et al., 2021). An important distinction has been drawn between the entrepreneurial philanthropist (pursuing transformational social goals) and the customary philanthropist (supporting established institutions and social practices) (Harvey et al., 2021). The former are frequently described as 'philanthrocapitalists' (Bishop, 2013; Bishop & Green, 2015), although the term has been used inconsistently in the literature (Haydon, Jung, & Russell, 2021). Whatever the preferred categorisation, care should be taken not to treat these actors as a singular unvaried unity

We offer three contemporary examples of philanthropy in action to develop our central arguments and demonstrate the global reach of these actors. First, there is the Family Planning 2020 initiative. The 2012 London Summit was organised and hosted by the UK Department for International Development (DFID) and BMGF (Cohen, 2012). At the summit, there was an emphasis on monitoring and evaluation, with a particular focus on measuring improved quality of SRH services and information to promote truly informed and voluntary reproductive choice. A '120 by 20' target or goal was adopted, aiming for an additional 120 million women and adolescent girls as users of modern contraceptives by the year 2020 (Brown et al., 2014). The organisers considered that a quantitative measure was important, bearing in mind the outstanding success of such goals in child health. This measure was to apply to the world's 69 poorest countries, 41 of them in Africa. The initiative was subsequently driven by a multi-stakeholder arrangement including DFID, BMGF, the United Nations Population Fund (UNFPA) and the US Agency for International Development (USAID) (Hendrixson, 2018). The organisers created a global coordinating body called Family Planning 2020 (FP2020) to promote and track the commitments and progress. By 2018, 48% of the expenditure on FP2020 had come from international donors (United Nations Foundation, 2020).

At the time of the London Summit, more than 320 organisations and individuals from 80 countries highlighted the vital need for the centrality of women's right to bodily autonomy in any initiative (CRR, 2012). Despite statements to the contrary, the use of goals or targets arguably perpetuates a

neo-Malthusian outlook, setting up a tension between collective goals and the realisation of individual user rights (Hendrixson, 2018; RamaRao & Jain, 2015). Further, the '120 by 20' target has been described by some experts as racialised and gendered, as well as geographically placed (Hendrixson, 2018).

Our second example is the Implant Access Program (IAP), a public-private partnership made up of governmental aid agencies, NGOs and philanthropic organisations (BMGF and the Clinton Health Access Initiative) (Hendrixson, 2018). It aims to expand access to contraceptive implants through a cost-reduction scheme, organised training of service providers, and by building supply chains. Two implants are being distributed and promoted: the single-rod, 3-year lifespan Implanon NXT manufactured by Merck & Co and the dual-rod, 5-year lifespan Jadelle manufactured by Bayer. The ethics of promoting such long-acting reversible contraceptives are not straightforward (Wale & Rowlands, 2021). Companies have reduced prices of contraceptive implants in exchange for 6-year duration volume guarantees (RamaRao & Jain, 2015). There has been the suggestion that this arrangement produces a '*classic win for both consumers and producers*' (Bank, 2016), raising the spectre of self-interest in the outcomes. This, in turn, raises issues about the possible coercion of contraceptive users, the use of default choices and market distortion caused by the promotion of particular or singular product options. Some concern has also been raised about the prioritisation of training for insertion over removal and the side effects associated with implant devices (Christofield & Lacoste, 2016). Similar arrangements apply to Sayana Press, a self-administrable subcutaneous injectable contraceptive sold by Pfizer and widely available and promoted in SSA (Bendix, Foley, Hendrixson, & Schultz, 2020).

Our third example is the Ouagadougou Partnership formed by nine Western African countries, international governmental agencies (USAID and DFID) and various international donors (BMGF and William and Flora Hewlett Foundation) in 2011. The initial goal of the partnership was to achieve one million additional voluntary users of modern contraception and FP methods in these regions by 2015 and 2.2 million more by 2020. This target or goal has been recalibrated to double the number of users of modern contraception within these regions of Africa to 13 million by 2030 (OP, 2021).

We make the following observations. First, each example involves complicated stakeholder arrangements, where it is not always easy to separate out or assess individual stakeholder actions. This makes the ethical evaluation of their activities and interventions much more difficult. Second, if the public sector in a country lacks the skills, resources, or political will to design or deliver FP services independently (Countdown 2030 Europe, 2020), it will create opportunities for intervention by a range of transnational non-state actors (NGOs, philanthropists, donor aid agencies, and private sector organisations). Third, state actors may actively request foreign aid, support and assistance to help them to deliver domestic FP and SRH policies and programmes. Limited economic circumstances

mean that some states are highly dependent upon or vulnerable to this type of funding or delivery mechanism (Komu & Ethelberg, 2015). Fourth, there may be a possible tension between performance-based and rights-focused interventions. Volume financing of specific contraceptive options or incentivising health workers to meet distribution targets fall into the former category. Finally, there is a salient difference between policies and programmes that promote singular or limited contraceptive choices and those that emphasise a mixed offer of FP options, where the informed choice of users is the critical priority. In practice, the combination of volume financing, distribution targets, and singular option promotion can prove a significant hurdle for the realisation of individual contraceptive user rights. This makes the ethical evaluation of stakeholder motivation and interests of particular importance.

UN Sustainable Development Goals

The UN Sustainable Development Goals (SDGs), set in 2015 for attainment by the year 2030, make specific references to FP and SRH with regard to health and wellbeing (SDG 3.7), and gender equality and women's empowerment (SDG 5.6). Target 3.7 speaks of '*universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.*' Indicator 3.7.1 also focuses on the family planning needs of individual women. Similarly, target 5.6 speaks of '*universal access to sexual and reproductive health and rights.*' Indicator 5.6 focuses on the importance of individuals making informed decisions in the context of contraceptive use and SRH. A critical issue is whether these aspirations about individual rights and decision-making can be delivered in practice. Can we realistically and effectively combine an increased uptake in contraceptive use (per FP2020) with the promotion of individual rights and reproductive health? Further, do multi-stakeholder partnerships make the achievement of these ends more or less likely?

Foreign intervention: the ethical arguments

It is relatively uncontroversial to claim that it is unethical for high-resource states or organisations to invest in coercive population or fertility control programmes in lower-resource states (Rust, 2010). But is there any ethical controversy in providing funds or other support to allow citizens of lower-resource states to use contraceptive methods that they could not otherwise afford? Moreover, does it make any difference if the foreign support follows requests for help from the states themselves (Warwick, 1974)? Voluntary requests for assistance might be seen to legitimise foreign intervention or minimise the perception of external coercion or self-interested action. However, voluntariness on the part of the state actor is itself linked to a necessary degree of economic, political and social freedom in decision-making. This factor may come into play in less developed regions of the world where the public sector may not have the resources or expertise to implement a policy or programme (Warwick, 1974). There is also the degree to which philanthropic action might itself taint the

recipient of aid or support. For example, see the recent media interest in the work and donations of the Sackler family and their possible connection to the opioid crisis in certain parts of the world (Anonymous, 2019).

Some attempt has been made to differentiate coercive from passive interventions in fertility control (Rust, 2010). Compare, for example, the active imposition of coercive sterilisation policies with the provision of incentives to community health workers to promote and distribute specific kinds of fertility control. There is not the space to develop this distinction fully, but there is no individual user choice or any pretence that individual rights matter in the former scenario. In the latter scenario, individual user rights might be recognised, but other preferences or priorities are being advanced, either implicitly or explicitly, by the offeror or promoter of the incentive. In reality, these kinds of policies will be constructed and implemented by multiple agents, using a range of instruments that combine to influence societal behaviour in both intentional and unforeseen ways (Wale & Rowlands, 2020). This makes the ethical evaluation of these different approaches more challenging. Further, the boundaries between coercive and passive action may not be easily drawn; both placing practical limitations on individual liberty and autonomy. For example, offering financial incentives to users and motivators to increase the take up of specific contraceptives might well interfere with the voluntariness of individual decision-making in low-income populations (Wale & Rowlands, 2020; Warwick, 1974). It may also be ethically problematic for the rich to decide and prioritise how resources are reallocated to the less well off.

Hernandez describes two distinct strands of collective welfare ethical justification for external foreign action in developing countries with high TFRs: 'lifeboat earth'; and 'spaceship earth' ethics (Hernandez, 1985). Both discourses promote or prioritise collective interests and concerns over the realisation of individual rights. Lifeboat earth discourse recognises that the planet has finite space and resources meaning due regard must be given to the interests of current and future peoples. Each region is seen as a 'lifeboat' under threat by excess resource demand and population migration. Typical policy responses motivated by this type of ethical thinking will include the restriction of inward migration and a focus on the fertility of those that are seen to be threatening a state and their resources. This neo-Malthusian perspective encourages a policy of responsible procreation, ensuring that affluent states are not dragged down by the excessive population growth of the least developed! These approaches tend to ignore co-dependence upon resources and avoid stewardship obligations for the global commons (Brownsword & Wale, 2021). As such, we do not subscribe to this particular line of thinking.

The 'Spaceship Earth' model is nicely captured by the following UN statement:

'Despite considerable global progress in meeting the need for family planning, there remain significant international inequalities in access to modern contraceptive methods. Global advance in the next decade is

contingent on the progress to be made in countries where the use of modern contraceptive methods is still low among women who want to avoid pregnancy. In these countries, located mostly in sub-Saharan Africa but also in Oceania excluding Australia and New Zealand, and in Northern Africa and Western Asia, the number of women of reproductive age who have a need for family planning will continue to grow rapidly. Future population growth will pose challenges to countries that seek to expand reproductive health-care services in order to keep pace with these growing needs. Meeting the increasing demand for family planning will require a renewed commitment and decisive action by governments across the world to make family planning information, methods and services available and accessible to all.' (UN, 2020)

Whilst increasing unmet contraceptive demand is the driving narrative, it is the combination of inequality of access and the contingency for global progress that is being used to legitimise international and foreign support. Underpinning this discourse is a fairer distribution of global socio-economic resources to maximise the survival of the human ecosystem. As well as limiting population growth through increased access to modern contraceptive methods, it is claimed that a fairer distribution of resources will lead to global improvements in health, education and employment, which in turn contributes to the reduction of fertility rates across the world (Hartmann et al., 2016). Entitlement to and respect for universal human rights are also advanced as a rationale and justification for global action (e.g., Art 16, Convention on the Elimination of All Forms of Discrimination against Women).

A third way of collective welfare thinking is the 'stewardship' model which suggests that ordinary time ethical justifications are superseded in specific acute global emergencies (extraordinary times) by the urgent need and responsibility to take steps to restore and maintain the pre-conditions for the existence of any kind of human community with any kind of guiding ethical perspective (the global commons) (Brownsword & Wale, 2021). The stewardship model has much in common with spaceship earth but has a narrower focus on the preservation and maintenance of the global commons. It also allows for the possibility of co-existence between ordinary and extraordinary times ethical thinking (Brownsword & Wale, 2021), and assists mediation between different ethical perspectives and priorities.

Collective welfare approaches raise questions about who should bear the burden and provide the resources for global disparities in population growth (Rust, 2010). Further, there are issues about who should be deciding upon and implementing the priorities for allocating resources. One response is to select the least coercive, least burdensome method which maximises collective interests and infringes upon other 'protectable' interests the least (Rust, 2010). Such approaches do not see individual rights as trumps in a Dworkian sense (Dworkin, 1977). Instead, it is collective or regional interests that are paramount: the threat to the global commons justifies suspension or supervision of ordinary ethical thinking. Alternatively, these approaches suggest that the context prioritises utilitarian, communitarian or deontological thinking over a rights-based paradigm (Brownsword & Wale, 2021). This narrative has resurfaced in contemporary responses to perceived threats to our ecosystem,

including climate change and the COVID-19 pandemic. Indeed collective welfare thinking probably helped some pharma companies secure state exemption or indemnity from legal proceedings in exchange for the distribution of their COVID-19 vaccines (Lintern, 2020). On one view, this has involved states relegating individual rights in the pursuit of the collective good; on another, it is an arrangement that prioritises commercial interests over the rights of individual vaccine users.

Ethical discourse and philanthrocapitalism

There is a general tendency to make connections between collective welfare and philanthropic activity around the world. Take Bishop and Green (Bishop & Green, 2015) as an example. Their narrative focuses on philanthrocapitalism as the means to a) changing the world for good; b) remedying existing failures to achieve a fairer distribution of resources; c) using resources more effectively and efficiently for the greater good; d) '*embedding a social mission in the corporate DNA*'; and e) generating the '*glue in a new social contract between the rich and the rest*' (Bishop & Green, 2015). There is no explicit focus on the delivery or enhancement of individual recipient rights. Instead, their justifications appear to involve a mix of teleological, deontological and neo-liberalist rationales.

There is no conceptual difficulty in state actors owing positive obligations to their people, including a duty to protect and preserve the human commons or the conditions that make human social co-existence possible (Brownsword, 2021; Brownsword & Wale, 2021; Rawls, 1993, 1999). Critically, however, the nature, source and quality of these obligations will be different to those that a philanthropist might owe. For a start, state actors will operate within and using recognised institutions and structures of power. Their legitimacy either comes from democratic recognition or wide acknowledgement of their structures of power and governance (Hart, Raz, & Bulloch, 2012). Ultimately, state actors will be accountable to their people, in the sense of a duty to explain and justify their conduct, and in some cases, by the necessity for regular democratic election (Reich, 2019a). Even if philanthropists are accountable to some degree, the mechanisms for accountability will differ from state actors in terms of immediacy and visibility. Collaborative philanthropic ventures within a state might generate voluntary (assumed) obligations, but here the volunteer philanthropist is crafting obligations in a way that a state actor cannot. For the record, we are not claiming that all philanthropic action is necessarily unethical or undemocratic – simply that the foundations for ethical assessment are different.

Might the support of international actors at the UN or similar organisational level provide some legitimacy for transnational philanthropic action to speak on behalf of the global community? The legitimacy of international organisations to meddle in domestic wellbeing and health policies is itself contentious. Perhaps, more decisively, it does not appear to be feasible for philanthropic or commercial entities to set aside their interests, goals, or agenda entirely. These entities are inherently partisan in their actions (Bishop, 2013) and wield enormous power to drive public narrative issues (cf

Warwick, 1974). Self-interest and the pursuit of one's own agenda are most notable in the entrepreneurial philanthropic category (Harvey et al., 2021; Maclean et al., 2021). This point is most striking when philanthropic action is justified on the basis that market-based solutions are better at tackling global problems than those on offer from state actors and their institutions (Harvey et al., 2021; Maclean et al., 2021).

Nor can these philanthropic actors claim to speak on behalf of society without an established institutional role that is both recognised by the population in which they choose to intervene and by which they can be held accountable for their actions in a meaningful way. These entities have the power and ability to harness market solutions to help states and their citizens, but they do not possess legitimacy on behalf of the collective in any given region of the world (Anderson, 2011).

Philanthropists may have some advantages over conventional state governments in terms of their ability to implement social experiments and long-term plans, but without effective external oversight, they are likely to remain the sole arbiters of decision-making (Reich, 2019a). Moreover, established relationships between international organisations, NGOs and transnational philanthropic organisations may exclude the voice of those at a grassroots level, perpetuating unequal historic power dynamics in the context of SRH (Yamin & Cantor, 2014).

What about the argument that transnational philanthropy is necessary and warranted for reasons of global justice and fairness? A good starting point is the seminal work of John Rawls (Rawls, 2001). His concept of justice dictates that '*any inequalities must benefit all citizens, and particularly must benefit those who will have the least*' (Rawls, 1971, 2008). Rawls acknowledged that people's positions on allocating resources could be inextricably linked to their fit and known position within the resource matrix. As such, it is problematic for those in a privileged position to assert justice as a basis for distributing resources, because the cards are already stacked in their favour at the time resource allocations are being made. Therefore, a Rawlsian theorist would want to ensure that private economic power is sufficiently constrained so as not to perpetuate inequalities in society that do not benefit all citizens, or at least those who are least well off. Furthermore, if we are serious about delivering justice, we would want to ensure that any actions reduce inequality as a matter of fact. Expanding the economic reach of large corporates and entrepreneurial philanthropists may only further inequalities in terms of wealth and power distribution (Harvey et al., 2021).

On the global stage, Rawls recognised the importance of internal order and strong political institutions within a state (Rawls, 1993, 2008). In the domestic context, he conceived citizens of a state as the people; but in the international context, Rawls used the term 'peoples' to mean:

'persons and their dependents seen as a corporate body and as organized by their political institutions, which establish the powers of government. In democratic societies persons will be citizens; in hierarchical and other societies they will be members.' (Rawls, 1993)

Accordingly, the peoples' collective interest is negotiated with others (including other nations of peoples) at a representative level. Whilst recognising that 'peoples' have a duty to assist those living in less favourable conditions than themselves – by helping them to achieve the conditions that make a well-ordered society possible (decent political and social institutions) – that duty does not extend to them imposing their will or interests on those peoples in other nation states (Rawls, 1993). As such, Rawls rejects the idea of cosmopolitanism: the idea that we are all members of a single, universal, human community (Appiah, 2006). David Elkins observes:

'Nevertheless, most social philosophers, including Rawls himself, reject cosmopolitanism and hold that Rawlsian principles are only applicable to, or can be limited to, the citizens or residents of a given society. It should be noted that Rawls was willing to concede that wealthy societies do have a minimal obligation toward societies whose level of material wealth is insufficient to allow them to become "well ordered." He rejected, however, any notion of international redistribution that was more comprehensive.' (Elkins, 2007)

On this analysis, there is a difference between the duties or principles that apply to citizens or members within a given society, and those that might apply between peoples or members of different states. The status of the actor – whether they are a member or citizen of that society – is critical to the obligations that they might be owed and the rights they may possess. It should follow that the ethical evaluation of a local actor should be treated differently to that of a foreign actor.

There are, of course, those that reject Rawls' theories and claim that there is a broader duty to give aid to those whose vital interests are subject to acute threats from poverty or similar circumstances (Ashford, 2011; Singer, 2009, 2011). These claims have been framed in Kantian, communitarian, cosmopolitan and utilitarian terms. The classic response to these claims is that any duty would be too broad and demanding in scope for the class of individuals affected and the steps that would be required by way of compliance. Further, poverty or similar threat generally arises through global or institutional failings, corruption and injustice, not simply by the action or inaction of a single philanthropic organisation. So, even if a positive duty to act or aid might arise, the nature and source of that duty is likely to differ from a state actor that is accountable for creating or perpetuating the original harm or injustice. Ashford concedes that there are differences in grounding and focus between an obligation of justice owed by the collective and an obligation of beneficence owed by an individual, even if there might be some element of overlap or similarity in content (T. Pogge, 2011).

Whatever your preferred ethical underpinning, it will be difficult to assert that a single philanthropic organisation or entity is solely responsible for the disadvantage suffered by people in specific regions of the world. Of course, individual state actors may also resist the idea that they are responsible for creating inequalities in their own or other states, recognising that collective and temporal causes have contributed to acute threats from climate change, poverty, population growth etc. These points only serve to reinforce the need for care in the extension of traditional duty or collective welfare arguments to philanthropic and commercial actors. Similarly, philanthropists that embrace the idea that the main

route to achieving fulfilment or transformation is through self-sufficiency and capacity raising (Harvey et al., 2021) are likely to set themselves up in opposition to the institutions of a state. Indeed, the entrepreneurial philanthropist is more likely to embrace an individualistic rather than a communitarian ethos (Harvey et al., 2021).

There may be slightly more convergence around the issue of harm. If we take the seminal harm principle of John Stuart Mill:

'That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.'
(Mill, 2010)

Mill's right of self-protection sounds in our earlier discussion of the 'lifeboat' but generally counts against coercive foreign interventions. For Mill, the foundation of rights is utilitarian: rights serve the principle of utility, no more and no less (Donner, 1999). There may be a collective interest in taking action to prevent harm to others but there would need to be some common understanding of the concept of harm and the 'others' being harmed. There would also be the issue of whether philanthropic action is an exercise of power although, if steps are taken that impinge upon individual (human) rights, it would be hard to argue to the contrary. Further, if there is any doubt about the voluntariness or the informed nature of a fertility intervention, we might question any claim based on the grounds of protection or utility. Interestingly, whilst Mill was critical of the operation of many philanthropic organisations, especially those with a perpetual existence, he did not rule out a societal role for these entities with appropriate governance and legal constraints imposed by the state (Reich, 2019a).

Even if we recognise cosmopolitan state responsibility to other peoples, the obligations that states owe to their own people will need to be tailored to accommodate the specific interests within that particular community (Brownsword, 2021). This specificity provides a further basis for distinguishing interventions within any given area. But can philanthropists lay claim to cosmopolitan responsibilities, and if so, are their obligations similar in scope and content to that of state actors? It is one thing to claim a global cosmopolitan obligation to preserve the essential preconditions for human existence, and another to claim an obligation to promote variants of reproductive control that do not immediately and exclusively underpin that existence. To be clear, we are not diminishing the importance of individual reproductive autonomy, but we are claiming that local conditions and values have a greater bearing on the content and scope of state responsibilities concerning matters that are not an immediate threat to the pre-conditions for human existence, development and agency – so called 'first-tier' responsibilities (Brownsword, 2021). Unless philanthropists are acting pursuant to these first-tier responsibilities, we cannot see how they can maintain a cosmopolitan justification for action. State actors cannot legitimately delegate their first-tier responsibilities to philanthropists

without undermining the importance of those obligations. Moreover, local conditions and values should necessarily feature in any justification for intervention, warranting ground up policy development and implementation in many areas.

In 'Just Giving', Rob Reich offers a qualified defence of philanthropy and claims that by using appropriate policy structures, we can ensure that these entities serve, rather than subvert democratic aims (Reich, 2019a). Putting aside the universality of the democratic ideal, we agree with Reich that philanthropists can do and achieve things that state governments cannot easily do, including taking a longer-term view on risks and opportunities. Although Reich claims that philanthropic organisations can be made into appropriate vehicles for securing intergenerational justice, he skims over two important issues: the role of the transnational philanthropist and the case for global intervention. On the first issue, Reich devotes much of his focus on philanthropic foundations and their activities within a host community (Reich, 2019a, 2019b). However, we know that BMGF and many large philanthropic organisations operate at a supranational or transnational level (Reich, 2019b) – operating beyond their state of origin and across the global community, often with direct engagement and support from international agencies. It is one thing for a community to empower philanthropic action within their own state for the benefit of current or future citizens, another to empower action in a foreign state, irrespective of whether that action is at the bequest of the recipient state. Although transnational activity may make these organisations more effective than traditional state actors, it does not legitimise or equalise their role. Indeed, it takes us back to the issues of fairness, accountability and economic inequality, and reinforces the case for effective and arms-length international governance and oversight.

On the second issue, Reich outlines the following case for global philanthropic action:

'If we adopt a global perspective, however, and incorporate all of humanity into our concern, we can identify a related argument on behalf of deploying philanthropic entities to develop precautionary strategies' (Reich, 2019a)

He goes on to identify '*existential risks to humanity*' as one area where '*there is good reason for a state to stimulate philanthropic contributions with the aim of reducing global catastrophic risk*' (Reich, 2019a). Reich's position appears to align with the stewardship model we have already outlined, extending the scope to precautionary, as well as presumably remedial action. Notably, Reich chooses to rely on Rawls to support some of his key arguments for intergenerational justice (Reich, 2019a). However, he does not fully address the limitations that Rawls' himself places on the duty of assistance to foreign states, although he appears to accept the need for boundaries on philanthropic freedom within the global community (Reich, 2019a).

Of course, there will be those that claim that too much emphasis is placed on state responsibility and the role of states in the pursuit of global social justice. However, such theories do not conceive philanthropic action as the mere delegation of state responsibility. Rather, these entities are conceived

as legitimate alternatives to state institutions and accordingly there is no question of symmetry or delegation of obligation. Importantly, many weaker forms of cosmopolitanism do not claim that there is a positive duty to intervene, instead proposing a duty not to collaborate in the imposition of an unjust institutional state of affairs (T. W. Pogge, 1992). Importantly, philanthropists are unlikely to have an initial social contract or contractarian arrangement with a community that would otherwise legitimise and compel intervention on their part.

Finally, we should address the rise in stakeholder corporate thinking – a theoretical position which is concerned with the interests of all those affected by corporate decisions (Tricker, 2019). These theoretical perspectives are not typically extended to cover the world population, but the activities of global corporations and philanthropic foundations can arguably affect a wide range of different stakeholders. There might be a case where there is sufficient direct corporate impact on a specific geographical region, to infer stakeholder obligations to act. Environmental pollution and climate change is an area that immediately springs to mind. However, many entrepreneurial philanthropists are likely to resist the idea that their foundations or corporations owe duties that they could not control to some extent (Harvey et al., 2021). There might be push back if there was any suggestion that a philanthropist was no longer the final arbiter of those deserving of their support. In any event, we probably want to resist direct alignment between corporate and state actors, although companies like Google and Amazon are pushing at that door.

Findings and Conclusion

Taking stock, what conclusions can we draw? First, we should repeat that we are not claiming that all kinds of philanthropic action are unethical or unjustified. Our central purpose has been to examine the application, extension and association of ethical arguments to philanthropic actors (and their commercial partners) and to pin down their ethical relationships with the states and peoples which they choose to support. In doing so, this facilitates a better understanding and analysis of the rights and obligations that might be at play in the context of philanthropic activity. In particular, we have highlighted, using a variety of ethical perspectives, a divergence between the obligations of state actors on the one hand and philanthropic and commercial actors on the other. If the latter have no direct or enforceable ethical obligations to respect individual rights in the giving of aid or support, this places a spotlight on the obligations that state actors owe to their populations in terms of oversight and accountability. Indeed, our analysis suggests that expanding the capacity of state actors in these two areas might help address some of the concerns about the power imbalance that we have highlighted in this paper. One obvious policy response would be to expand state capacity as a precondition to facilitating and enabling philanthropic action at an international level (Countdown 2030 Europe, 2020). This would require the global community to offer adequate support for states in the developing world before embracing and offering unequivocal support for initiatives by philanthropic actors in

these regions. Further, improving transparency about who is driving and deciding things in philanthropic partnerships and for whose benefit may also be important (Hendrixson, 2018).

Secondly, our analysis has implications for the building of global or regional partnerships with philanthropists and commercial actors. You will recall that our three case examples (Family Planning 2020, IAP and the Ouagadougou Partnership) all involved complex interconnected relationships between international and regional organisations, philanthropic foundations and other private organisations. In general terms, existing international legal obligations and commitments dictate that state actors and stakeholders should ensure that individual human rights are prioritised in the delivery of philanthropic programmes. Our findings suggest that community participation in the design of these programmes and proper oversight of philanthropic action may be critical to ensure that domestic needs and rights are met and respected. In our specific context, state actors have an important role to play in the promotion, regulation, and legitimisation of FP/SRH services delivered within their jurisdiction. State oversight will be especially important where regional contraceptive choices are limited and donor aid or private sector agents are active. Whilst recognising resource limitations, state actors can help address concerns about accountability and power misuse by extending the range of suitable contraceptive options for their populations; securing enforceable commitments to user rights (Cole, Boydell, Hardee, & Bellows, 2019) and promoting mixed-method frameworks whenever reasonably practicable.

Thirdly, our analysis has emphasised the importance of the relationship between transnational philanthropic actors and international bodies. Here we have in mind the closeness and independence of the agents. One response to concerns about accountability, power distribution and inequality, is to have effective arms-length scrutiny and oversight of philanthropic activity by international organisations including the UN and WHO. Strengthening international organisations might also enable these bodies to properly coordinate stewardship of the global commons and provide a trusted fulcrum for mediating discussions between ordinary and extraordinary time ethical thinking (Brownsword & Wale, 2021). Of course, this would have a direct impact on existing collaborations typified by the case examples in this paper.

The opportunities for philanthropic and private sector action may grow with increasing cuts to foreign aid budgets (Nandagiri, Strong, Leone, & Coast, 2021). Whilst non-state donors and philanthropic organisations can help fill some of the funding and organisational gaps, we all have a continuing moral obligation to scrutinise the activity and expect transparency from those who claim to be acting for the global good.

Conflicts of Interest

None

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