

# Transnational Medical Aid and the Wrongdoing of Others

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One of the ways in which transnational medical agencies (TMAs) such as *Medicins Sans Frontieres* aim to increase the access of the global poor to health services is by supplying medical aid to people who need it in developing countries. The moral imperative supporting such work is clear enough, but a variety of factors can make such work difficult. One of those factors is the wrongdoing of *other* agents and agencies. For as a result of such wrongdoing, the attempt to supply medical aid can sometimes lead to significant negative effects. What should TMAs do in such situations? On one view, TMAs should take account of any negative effects arising from the wrongdoing of others in just the same way in which they take account of negative effects arising more directly from their own actions, or from natural forces. To many people, this view seems wrong. In this paper, I articulate and discuss several different reasons why one might think this. In doing so, I hope to contribute to a debate about the more general question of how TMAs should respond to the wrongdoing of others.

## Introduction

One of the ways in which transnational medical agencies (TMAs) such as *Medicins Sans Frontieres* (MSF) aim to increase the access of the global poor to health services is by supplying medical aid to people who need it (and otherwise wouldn't get it) in developing countries. The moral imperative supporting such work is clear enough, but unfortunately a variety of factors can make such work difficult. One of those factors is the wrongdoing of *other* agents and agencies. Some of the clearest examples can be found in conflict situations, where access to those who need medical assistance may be 'taxed' by armed factions, or supplies may be looted. In either case, the resulting profits can be used to buy arms, or in other ways to fuel further conflict.<sup>1</sup>

Such situations present TMAs with difficult choices. If they attempt to provide aid, then serious negative effects might result; if they do not, then people in urgent need may remain without assistance. What should TMAs do in such situations? One thing they should do, of course, is try to find ways of providing assistance which avoid or reduce the risk of such negative effects. What if, despite such attempts, the risk of significant negative effects is still high, though? What should they do then? In particular, does the fact that in such cases the negative effects would result from the wrongdoing of others make any difference to what they should do?<sup>2</sup>

Some people would answer this last question in the negative. Consequentialists, for example,<sup>3</sup> believe that

TMAs should use their resources in whatever way is likely to have the best overall consequences, all things considered.<sup>4</sup> On the most straightforward interpretation, this would imply that TMAs should supply medical aid to a certain group of people when doing so is likely to have better consequences than any alternative course of action available to them, and that they should not supply such aid when doing so is not likely to have the best consequences. On such an approach, then, the fact that some of those consequences might result from the wrongdoing of others—the warlords or combatants who looted the aid—would not make any difference. All consequences that might follow from the TMA acting in this way or that—whether a relatively direct result of the TMA's own actions, or the more immediate result of the actions of some other agent or agency—would get counted in the same way.<sup>5</sup>

Others, by contrast, would say that the fact that the negative effects would result from the wrongdoing of others in such situations does make a difference. Indeed, I suspect that this would be the majority view. It is not immediately clear, though, exactly what lies behind this view.<sup>6</sup> Why exactly might the fact that the negative effects would result from the wrongdoing of others affect what a TMA should do? And what difference exactly might that fact make? Might it imply that TMAs should sometimes go ahead and supply aid, even when the risk of negative effects is very high, when that risk arises from the wrongdoing of others?

In this paper I articulate and discuss several answers to these questions. As will become clear, doing so raises many large and complex issues that I cannot hope to settle here. Rather than seeking to provide the final word, then, I focus mainly on trying to pick out the answers to the questions just raised that have the most force, and that may therefore merit further investigation. This, I hope, will provide a useful basis for further discussion of these issues.<sup>7</sup>

## Questions of Responsibility

It may seem that there is a quick and easy answer to the questions I have just posed.

In the type of case sketched above, one might argue, it may be the case that certain serious negative effects would be likely to follow if the TMA supplies aid to the group in question. But it wouldn't be the case that the TMA had *brought about* those effects, in any ordinary sense of the term. It would be the combatants who had looted the aid who would have done so. And given this, those combatants would be responsible for any resulting negative effects.<sup>8</sup> And if the combatants would be responsible for any resulting negative effects, one might suggest, the TMA would not bear any responsibility for them. It would not be *their* fault that many of the supplies didn't reach those who needed them, or that the warlords got more money to spend on arms. And if the TMA would not bear any responsibility for those effects, one might conclude, it would not be wrong for them to provide aid, even if doing so might lead indirectly to those effects.

Is this argument convincing? Consider the assumption that the TMA would not bear any responsibility for the negative effects in question. It is of course clear that the warlords or combatants would bear the *primary* responsibility for those negative effects. They would be the ones who had actually done the looting and the 'taxing', and who had used the resulting funds to create more mayhem. It wouldn't automatically follow that the TMA didn't bear any responsibility at all for those effects, though. For more than one agent can have some measure of responsibility for the same event. Whether the TMA did bear any responsibility for the negative effects would depend, in part, on whether supplying aid in such circumstances was the right thing to do. If doing so was in fact wrong, then the TMA might indeed bear some responsibility for the resulting negative effects. And one cannot of course assume that supplying aid was the right thing to do at this point in the argument, for that is supposed to be the *conclusion* of the argument.

One cannot, then, justify the claim that it would not be wrong to supply aid in such circumstances by appeal to

the premise that the TMA would not bear responsibility for any resulting negative effects. For we could only be sure that that premise is correct if we already knew that it was not wrong to supply aid in such circumstances. And for this reason, it does not seem to me that there is any very quick or direct route from such considerations of retrospective responsibility to any substantive conclusions about what TMAs should do in such situations.<sup>9</sup> What we have to do instead, I think, is to dig a little deeper, and try to articulate just what it might be that is inappropriate or mistaken about an approach which, like the consequentialist approach, takes account of negative effects arising from the wrongdoing of others in just the same way in which one takes account of negative effects arising from other causes. I consider several suggestions of this kind in the next two sections.

## Human Behaviour and Natural Events

One line of thought can be put in this way. A TMA that follows a consequentialist policy, it might be said, takes account of other agents and their behaviour in the same way that it takes account of natural phenomena, such as bacteria or weather systems. Both are treated simply as variables that may affect the consequences of the actions available to that agency. One might suggest, though, that this is an inappropriate stance to take toward other agents and their behaviour. For human beings are rational agents, capable of understanding reasons and responding to them, and therefore seem to call for a different attitude.

Is there anything in this line of thought? Note first that it is at least potentially misleading to say that those who follow a consequentialist policy need take account of other agents and their behaviour in the same way that they take account of natural phenomena. For one thing, they may try to influence the behaviour of other agents, and such influence may take forms that are appropriate only to rational beings, such as the attempt to persuade by the use of reasons, and to encourage or deter them through one's manifested dispositions. And for another, those who follow a consequentialist policy may have the kinds of attitudes to the behaviour of others that are appropriate only to moral agents, such as blame and indignation.

Those who follow a consequentialist policy need not, then, take account of other agents and their behaviour in quite the same way that they take account of natural phenomena. It is true, nevertheless, that at some point they will assign probabilities to the consequences of the

various courses of action available, and these will include indifferently both consequences that result from the behaviour of others and consequences that result from natural phenomena. This will apply to attempts at rational persuasion in the same way as it applies to all other courses of action. And then they will do what seems likely to have the best consequences, given these probabilities.<sup>10</sup> To *this* degree, then, those who follow a consequentialist policy really do take account of other agents and their behaviour in the same way that they take account of natural phenomena. What exactly might be wrong with this, though?

A number of answers may be given to this question. One is suggested by Nancy Davis, who writes (1980: 32–3):

In cases in which other agents choose to bring about a bad outcome. . . I am perhaps involved in some incoherence about agency if I think that I should modify *my* behaviour because other agents—whose closer and more direct responsibility it is—*will* not alter theirs. I am treating my own choices and actions as alterable in ways in which I am not treating other agents' behaviour as alterable. Yet I claim to regard each of us as an agent. . .

There is something suggestive about this line of thought, but it does not seem to be correct as it stands. For one thing, it simply does not appear to be true that in such a case I would be 'treating my own choices and actions as alterable in ways in which I am not treating other agents' behaviour as alterable', if I modified my behaviour because other agents will not alter theirs. I can acknowledge that their choices and actions are alterable, should they choose to alter them, just as mine are alterable, should I choose to alter them. It is just that *I* cannot (normally) alter *their* choices and actions, in the way that I can alter my own. This difference is a genuine one, though, and so the acknowledgement of it does not appear to betray any 'incoherence about agency'. Nor does it imply that someone who makes such an acknowledgement would fail to regard the other person as an agent.

Nevertheless, there does seem to be a real concern in this vicinity. In certain situations at least, altering one's behaviour because other agents will not alter theirs, or because one assumes that they will not, might involve an air of presumption, or a failure to give due respect to their capacity to reason through for themselves what to do. Consider, in this context, the following passage from Philip Pettit (1997: 168):

In many situations there will be lots of problems associated with forming predictions about how far others will fail to comply in response to a certain

demand and then trying to compensate for the expected shortfall. Such a course of action will be condescending in character, representing not just a prediction about others but a way of pre-empting their decisions; it will involve treating those others like instrumentalities, not interlocutors.

The idea that there is something wrong with such pre-emption does seem to have some force in some contexts. Consider an over-vigilant mother, for example, who tries to prevent her children from ever doing wrong by so adjusting circumstances as to take away any opportunity for them to do so. Doing so would manifest a lack of respect for her children's developing capacities to decide well for themselves, as well as an underestimation of the importance of learning for oneself. And more broadly, refraining from pre-empting the decisions of others, and thus giving them the opportunity to decide for themselves, seems an important form of the respect we owe one another as rational beings.

At the same time, though, there are surely limits to how far one can push this line of thought. Though in general I want others to respect my capacity to make good decisions for myself, I also recognise that I am a flawed creature with a tendency to go astray in certain situations, and sometimes it is good to be spared the freedom to do the wrong thing.<sup>11</sup> And such considerations are much reinforced, of course, when one turns from the point of view of the agent to that of the potential victim of the bad choices of others. For no one wants to have their lives ruined by others' being given the opportunity to decide for themselves, and making a bad decision.

Exactly how to strike the right balance between these competing considerations is likely to be a difficult matter, and it seems plausible that the balance should be struck in different ways in different kinds of cases.<sup>12</sup> Let us consider, though, how the line of thought just outlined might apply to the kinds of cases I sketched in Section 1. If, on the one hand, a TMA fails to provide aid to a certain group of people in response to the risk of looting, then it may be said to have pre-empted the decision of the combatants about whether or not to loot the aid. Given what the TMA does, the combatants will no longer have the option to loot, and thus no longer face the decision about whether or not to do so. If the TMA does provide aid, by contrast, the combatants will face that decision. By providing aid, then, one might suggest, the TMA would be putting the onus onto the combatants—saying, in effect, 'now it is up to you'. And doing so might be said to constitute a form of respect for those combatants. For the TMA would be treating them as responsible adults, able to make their own decisions, and indeed to do the right thing.

These considerations may lend some support to supplying aid in such circumstances, even if doing so is not likely to have the best effects. If one has reasons to believe that there is at least a very good chance that the combatants will in fact loot the aid, given the choice, however, and that their doing so would have very bad consequences, it would be hard to argue that the agency should go ahead despite the risk.<sup>13</sup> Even if sending the aid in, and thus giving the combatants the choice about whether or not to loot, would constitute a form of respect, moreover, it does not follow that failing to do so would be disrespectful in any significant sense. Indeed, it might be that, through their prior conduct, the combatants have forfeited the right to that particular form of respect.<sup>14</sup>

In cases where one is less certain that the other party in question will do the wrong thing, given the choice, however, or in which the effects of their doing the wrong thing would be less bad, the line of thought sketched above might be harder to dismiss. Of course, in such cases the risk of negative effects will also be lower, and so it will be less likely that a consequentialist analysis would recommend not supplying aid. It is still possible that such an analysis would do so, though. And even if it would not, it would still be interesting to ask the counterfactual question: are the kind of considerations just sketched important enough to warrant supplying aid, even if doing so were *not* likely to have the best consequences?<sup>15</sup>

There is also another way in which the considerations just sketched may provide relatively strong grounds for departing from a consequentialist policy. As I said above, a TMA that follows such a policy will decide whether or not to make attempts at rational persuasion in the same way it decides whether to pursue any other course of action—depending on whether that is the course of action most likely to have the best consequences. If such attempts at persuasion look likely to have the best consequences, then such a TMA will make them; if not, then it will eschew them. Given the importance of the fact that other human beings are rational agents, however, the respect due to them in virtue of this, the uncertainty of any assumptions about what they will do, and the risk of adopting a presumptuous or condescending attitude, one might argue that TMAs should prioritise making attempts at rational persuasion to a greater degree than a strict consequentialist calculation of the consequences would warrant. That is, one might suggest that TMAs should sometimes make such attempts even when doing so does *not* seem likely to have the best consequences.

Like all departures from a consequentialist policy, this departure would exact its costs. In particular, it would mean that the consequences of the TMA's actions would be likely to be less good.<sup>16</sup> Given how grave the conse-

quences are in the kinds of cases we are concerned with here, this is a very serious matter. Nevertheless, the suggestion that the considerations just summarised justify paying some costs of this kind does not seem to me easy to dismiss. That suggestion, then, might be a fruitful subject for further investigation.

Questions concerning the point at which one should give up on attempts at rational persuasion are tricky for another reason, which is mentioned by Rony Brauman, former president of MSF. After expressing some general scepticism about epidemiological prediction, he writes (Brauman, 2002):

Epidemiological “certainties” also create the illusion that obstacles to the treatment of disease are insurmountable, when often what is really lacking is a commitment on the part of politicians and the medical community.

This point seems to me an important one. If one builds the failure of ‘politicians and the medical community’ to do what they should do into one’s epidemiological predictions, one might come to the conclusion that it is impossible for certain diseases to be treated successfully. That would be false, if those diseases could in fact be treated successfully were the relevant parties to do what they should. And it might lead one to neglect the option of seeking to make successful treatment possible by taking action to bring it about that the ‘politicians and the medical community’ do what they should.

For these reasons, it is important to be careful about specifying what assumptions concerning human behaviour any such claims about what ‘can’t’ be done presuppose, and distinguishing outcomes that are ‘impossible’ due to expected human wrongdoing from outcomes that are ‘impossible’ for other reasons. Even if one does so, though, one will still face hard decisions concerning whether to invest scarce resources in attempts to persuade others to do the right thing, attempts that may of course be unsuccessful. And so one will still have to decide whether to make this decision on the basis of whether doing so is the use of one’s resources that is likely to have the best consequences or not.

Next, I turn to a rather different set of reasons why one might think that TMAs should not respond to the wrongdoing of others in the same way in which they respond to other obstacles to aid.

## Commitments, Control, and Manipulation

Many TMAs have a strong commitment to providing medical services to whoever needs them. They advocate

for such aid to be recognised as a human right, write the commitment to provide such aid into their mission statements, and raise money on that basis. If the risk of negative effects leads them not to provide such services to a certain group of people who need them, however, one might suggest, they will be failing to act on—perhaps even *abandoning* or *betraying*—this commitment. This in itself may be taken to provide a strong reason to think that it would be wrong not to provide aid to that group. But the fact that, in the situations we are considering, the failure to provide medical services to the group of people in question would be prompted by the risk of wrongdoing by other parties might be taken to make things even worse. For to choose not to supply such services whenever the threat of wrongdoing by others makes doing so less than optimal, one might suggest, would in effect be to hand over to wrongdoers the power to determine whether one supplies such services or not. This seems perverse, and might be taken to constitute a serious blow to the integrity of any organisation that acts on such a policy.

Is this line of thought compelling? It is important to emphasise, to begin with, that it would not at least typically be the case that the only alternative to supplying medical services to the group in question would be doing nothing. Given that many people currently in great need of medical assistance globally do not get it, the TMA would normally be able to find some other group of people in less straightened circumstances that they could assist instead, if the threat of wrongdoing made assisting the group they originally had in mind very risky. And so the choice the TMA faces would rarely be simply whether to supply aid or not; instead, it would typically be whether to supply aid to this group or to that. And when that is so, a TMA that follows a consequentialist policy might at most be said to be giving wrongdoers the power to determine which group they aid; they would not be giving wrongdoers the power to prevent them from supplying aid at all.

Does this response dispose of the concern sketched above? At best, not entirely. For one thing, there may still be some situations in which there is, in real time, no other group that the TMA could assist instead, and so sometimes the choice really might be whether to aid this particular group or to do nothing. Even when this is not so, moreover, giving wrongdoers the effective power to determine *which* group one aids still sounds rebarbative enough. And in addition, in many cases those who run the TMA may believe that there are strong non-consequentialist reasons why they should provide medical supplies to a particular group.<sup>17</sup> And when that is so, choosing not to supply aid to that group may still feel

like a betrayal, even if there is another group that they could aid instead.

The fact that TMAs would normally be able to find some other group of people to assist instead, then, if the threat of wrongdoing made assisting the group they originally had in mind very risky, does not appear to dispose entirely of the line of thought sketched at the beginning of this section. Another point to emphasise in response is that not all commitments should be interpreted in an ‘absolutist’ way, as permitting no exceptions. Many people who have a strong commitment to telling the truth would still lie in certain special circumstances—if, for example, the axe-wielding murderer knocked on their door, as in Kant’s famous case, asking where his friend was hiding. And surely they would be right to do so.<sup>18</sup> In doing so, moreover, they need not be ‘abandoning’ or ‘betraying’ their commitment to telling the truth. Intelligently interpreted, the commitment to telling the truth builds in certain exceptions. For all that has been said so far, the same may be true of the commitment to provide medical aid to whoever needs it.

We should not assume, then, that just because certain TMAs have a commitment to providing aid, it is always correct for them to do so, even though it is surely good to have such a commitment, and providing aid is good in itself. Nevertheless, one should certainly acknowledge that it is likely to be very painful for TMAs with such a commitment not to supply medical assistance to any group of people to which they believe such assistance is due, even if they are able to assist some other group instead. And there does seem to be something especially rebarbative about being ‘forced’ into doing so by the wrongful behaviour of others. Consider the case of the axe-wielding murderer again. For someone with a strong commitment to telling the truth, it may be very difficult to tell a lie even in this case. It may certainly *feel* that one is doing something wrong. In this case too, moreover, the failure to act on the commitment in question would be ‘forced’ by the wrongdoing of another party. And there does seem to be a certain kind of unfairness in this. It would mean that wrongdoers have the power not merely to hurt one physically, but also to affect one’s will, for one would be *choosing* to lie, and thus to do something which is at least normally wrong. Despite all this, though, few of us would say that you should tell the axe-wielding murderer the truth. Indeed, to do so would apparently be to put a certain kind of moral purity before the basic interests of others in a way that borders on the grotesque.

The case of aid is different, not least in that providing aid, unlike telling the truth to the murderer, would normally do at least some material good.<sup>19</sup> But it does share

important features with the case of the axe-wielding murderer. Those who run the TMA would no doubt find it very hard not to supply aid to the group of people in question. They too may certainly *feel* that, in not supplying the aid to that group, they are doing something wrong. And again, there does seem to be a kind of unfairness in being ‘forced’ into doing so by the wrongdoing of others. As in the case of the axe-wielding murderer, though, it is at best far from clear whether this is a sufficient reason to hold fast to the commitment in an absolutist manner. At the least, one should again acknowledge clearly and explicitly the cost that taking such a stance would impose. Doing so would probably cost lives, or have other negative effects of similar gravity.<sup>20</sup> Is the rebarbateness of being ‘forced’ by the wrongdoing of others not to supply aid to the group in question so great that it justifies paying this cost? I have no knockdown argument against the claim that it is, but it does seem to me that the burden of proof is on those who make this claim.<sup>21</sup>

Nothing I have said so far assumes that any other party *aims* at altering the behaviour of the TMA in question. Even if the warlords, for example, give no thought to TMAs or what their actions will mean for such agencies, they might still be said to determine what a TMA that follows a consequentialist policy does, in the sense sketched above. If they realise that a TMA will not give aid when the risk of negative effects is high, though, other parties could also use the threat of wrongdoing deliberately to affect its behaviour. If a certain party does not want a TMA to deliver aid to a certain group of people, for example, they could threaten to loot any such deliveries. If the threat is sufficiently credible, this may change the probable consequences of giving aid enough to deter TMAs that follow a consequentialist policy from doing so. And in this way, the other party would have been able to manipulate the TMA into doing its will. An agency that had an invariable policy of providing aid whatever the risk of negative effects, by contrast, would be invulnerable to this kind of pressure.

This is clearly an important possibility. What implications does it have? For one thing, it shows that being known to follow a policy of not supplying aid when the threat of negative effects is severe may itself have negative effects. In the kind of case just sketched, for example, being known to follow such a policy might result in the group in question not receiving aid. Given such possibilities, it may be that a policy of deciding each case on the basis of whether giving aid in that case would be likely to have the best consequences would not be the policy that, as a policy, has the best consequences.

Whether this is in fact so would depend on complex issues concerning how great the risks of such manipulation

are, and how bad the effects would be if they were realised. And of course I will not tackle these issues here. The main point to emphasise here is rather that insofar as the focus is on the risk of the negative *effects* of following one or another policy, this concern is of course one that consequentialists can acknowledge and accommodate. For consequentialism is all about acting in a way that is likely to have the best effects. And therefore, this concern provides no deep objection to the consequentialist point of view. At most, it provides a reason to adopt a form of consequentialism that takes account not only of the consequences of each particular action or intervention, but also of following (or being known to follow) a certain policy.<sup>22</sup>

Another reason why the possibility that following a consequentialist policy might make one vulnerable to manipulation might be taken to be relevant, by contrast, is not amenable to such consequentialist accommodation. For that possibility might be taken to reinforce the nonconsequentialist concerns raised earlier in this section. Those concerns focused on the thought that a TMA that altered its behaviour in response to the wrongdoing of others would, in effect, be giving those wrongdoers the power to determine whether or not it gives aid. Whatever the force of such concerns, it seems that they would be much amplified if the exercise of power in question were deliberate—if the wrongdoers in question were not merely *in effect* determining what the agency does, but *deliberately* and *consciously* doing so. The sense of not being in full control of one’s own moral orientation, of having one’s actions determined or controlled by another party, would be all the stronger, and the assault on one’s integrity potentially that much greater.

There does seem to me to be something intuitively forceful in this line of thought. There is something rebarbative about the bare fact of being subject to such manipulation, even apart from its consequences. And so it seems to me an intelligible reason why someone might resist a consequentialist policy. Is it a sufficient reason, all things considered? Again, this is a difficult question. As always, any such departure from a consequentialist policy is likely to cost lives, and so one has to think hard about whether the rebarbateness of being subject to such manipulation is worth paying that cost. But there is also a further point that is especially relevant here, in relation to the concern about being vulnerable to deliberate manipulation. For though uncompromising agencies that have an unvarying policy of supplying aid, whatever the consequences, could not be manipulated into not supplying medical services to a certain group in the way sketched above, they could still be *used* by other parties in ways that might be considered as repugnant, or even more repugnant, than this kind of manipulation.

Suppose, for example, that a certain party wants to move a group of people from their land, Territory A, in order to ethnically cleanse that territory. One way in which they might try to do so is by making life for that group of people intolerable in Territory A, while making goods and services available in Territory B. And they might seek to use TMAs to serve this strategy, by denying TMAs access to Territory A while permitting them access to Territory B.<sup>23</sup> A TMA that had an unwavering commitment to providing aid, whatever the circumstances, would go along with this strategy, as long as the group of people in question did need help. And thus it would allow itself to be used to support the process of ethnic cleansing. A TMA with a more flexible policy, by contrast, may refuse to do so.<sup>24</sup>

In this case, then, it would be the TMA that had the invariable policy that would find itself subject to morally ugly and potentially compromising forms of manipulation. And it might be argued that this form of manipulation is even worse than the form we looked at earlier, in which an agency is manipulated into not providing aid to a certain group of people. For a TMA that allowed itself to be used in this kind of way would be supporting the wrongdoers and their evil schemes in a more active way than a TMA that held back services when the threat of wrongdoing made the risk of negative effects sufficiently great.<sup>25</sup>

In one way, this form of manipulation is more like the case of the axe-wielding murderer than the form we looked at earlier. On that case, Christine Korsgaard writes (1996: 145–6):

The murderer wants to make you a tool of evil; he regards your integrity as a useful sort of predictability. He is trying to use you, and your good will, as a means to an evil end. You owe it to humanity in your own person not to allow your honesty to be used as a resource for evil.

One may argue similarly that a TMA that provided aid to the people in Territory B in the example just sketched would be allowing itself, and in particular its (in itself very worthy) commitment to provide aid to all, without exception, to be used as a resource for evil—and that it should not do so.

This point is of course controversial. What is clear, however, is that agencies that follow a consequentialist policy are not the only ones that are liable to having their good intentions exploited by wrongdoers. And given this, it is less clear that one can take being vulnerable to such exploitation as a sufficient reason for rejecting a consequentialist approach.<sup>26</sup>

## Review

In this paper, I have articulated a number of reasons why it might be considered inappropriate for a TMA to take account of negative effects arising from the wrongdoing of others in the same way in which it takes account of negative effects arising from other causes. And I have also attempted to undertake at least an initial process of evaluating those reasons. I haven't tried to settle the question whether such an approach is in fact inappropriate, but I have tried to find the strongest reasons for thinking that it is not. I will, no doubt, have made many mistakes, but I hope that the attempt will nonetheless be sufficient to stimulate others to tackle these important and fascinating issues.

## Notes

1. For brief reviews of such problems, see e.g. Collins, 1998; Weiss, 1999; or Addison, 2000.
2. There may of course also be cases in which providing medical aid risks causing serious negative effects, but not because of anyone's wrongdoing. In this paper, though, I focus on cases in which such wrongdoing is a significant factor.
3. I focus on consequentialism not because it is the only approach that would answer that question in the negative, but because it is a salient and familiar example of an approach that does so, and thus makes a convenient focus for discussion of this issue.
4. This very rough characterisation of the consequentialist position is intended to be neutral between a number of different forms of the theory. For an introductory account of some of the complexities here, see Sinnott-Armstrong, 2006.
5. All those consequences would be weighted to reflect the probability of their occurring, of course, but not to reflect who (in the ordinary sense of the term) had brought them about.
6. Hugo Slim, for example, writes that an NGO that takes 'a minimalist duty-based approach to its work' would not 'take responsibility for the wider consequences of its actions which might contribute to the sustenance of violence and a war economy. It would believe that such consequences depend on the moral choices made by others . . .' (Slim, 1997: 252). This last claim is obviously true, but it is not obvious why it might justify such an approach. After all, the consequentialist can agree that the negative effects in question depend on the moral choices made by others. What is unclear to her, though, is why this fact might imply that a TMA should go ahead and

- supply aid, even if it knows that those consequences are likely to follow.
7. In addition, I will be conducting the discussion at a very general and abstract level rather than focusing on the details of particular cases. Again, the hope is that doing so might help to lead to advances in understanding that can eventually be applied to such cases.
  8. To say that one is 'responsible' for something, in the relevant sense, is to say that one is culpable for it, at least unless one has an adequate excuse.
  9. This isn't of course to say that such considerations are entirely irrelevant. It is just to say that one can't resolve the issue quickly and easily by reference to them.
  10. This is of course an idealised model, which for a variety of reasons may be hard or impossible to follow in practice. Nevertheless, it is the model that those who advocate following a consequentialist policy think we should aspire to.
  11. Or at least, to deny this would be to embrace a personal ideal that many of us would find excessively rugged and individualistic.
  12. Pettit himself, in the discussion from which the passage cited above is taken, is focusing primarily on cases of collective action in which the fear is that some will not do their fair share, which of course are rather different from the kind of cases we are concerned with here.
  13. In some cases, of course, even when one takes account of such risks the positive effects of providing aid might be likely to outweigh any negative effects by enough to render providing aid worthy of choosing, even on consequentialist grounds. In other cases, though, this might not be so.
  14. We sometimes describe people who are relatively unresponsive to reason as 'forces of nature', perhaps in part to reflect the propriety of treating their behaviour more like a natural phenomenon than would normally be appropriate.
  15. On the other hand, the thought that preempting the decisions of others would involve treating them 'like instrumentalities, not interlocutors' seems to me to have less force. As I said above, nothing prevents those who follow a consequentialist policy from engaging with the noncompliers as interlocutors, as agents capable of responding to reasons. Those who follow such a policy may indeed try to persuade other parties rationally. And even when they do not make such attempts, it would not seem apt to say that they are thereby treating those others as 'instrumentalities'. For they need not be treating those others as instruments in any ordinary sense.
  16. This is so because following a consequentialist policy is, by definition, doing what is likely to have the best consequences.
  17. This might be because the group of people in question are those that face the most urgent need, for example, or because the TMA in question has worked with those people before, or because the TMA has told that group that it will help them, or in other ways led that group to expect that it will help them. For such reasons, the nonconsequentialist intuitions I am focusing on here may interact in interesting ways with other nonconsequentialist intuitions.
  18. Notoriously, Kant himself denied this; see Kant, 1799.
  19. The case we are dealing with here is also different in that it involves the *policies* of *organisations* rather than the *actions* of *individuals*. Might this difference be relevant in some way? In the main text, I discuss a way in which the policy/action distinction might be relevant shortly. As to the organisation/individual distinction, one might point out that some organisations have fiduciary obligations to spend their money in certain ways. Unless such obligations specify (or at least imply) that a TMA is not to follow a consequentialist policy, though, this would not constitute a reason for not following such a policy. And even in cases in which such obligations do specify that TMAs are not to follow a consequentialist policy, one can of course ask whether they are right to do so, which would be to replay the debate we are having here at a different level.  
One might also argue that organisations lack some of the properties that give individuals reasons to object to acting on a consequentialist policy. This suggestion seems to me more difficult to assess, and would therefore merit more consideration than I have space for here. It is true that organisations don't have feelings, and can't in a literal sense be frustrated. Those who work for them can, however, and one might argue that this is relevant to what such organisations should do. Furthermore, organisations can (it seems) have or lack integrity, and be treated fairly or unfairly, just as individuals can. As far as these properties go, then, one might argue that the same considerations apply to organisations as to individuals.
  20. This just follows from the fact that some other action or policy is likely to have better consequences, and that the consequences in the kinds of cases we are considering here are so grave.
  21. Of course, any deviation from a consequentialist policy, in such circumstances, would probably cost



lives. And so this point could be used against any factor that may be put forward as a justification for such a deviation. It seems to me an important discipline, nonetheless, to make this point explicit in relation to any such factor. For one may find that certain factors look relatively weak in the harsh light of this hard fact, while others still seem strong.

22. My rough characterisation of what a 'consequentialist' TMA would do in Section 1 above—use its 'resources in whatever way is likely to have the best overall consequences, all things considered'—was formulated so as to be neutral between these different forms of the theory.
23. I use this case here merely as an illustration, though I understand that certain real life cases correspond roughly to it.
24. Whether a TMA that followed a consequentialist policy would do so would depend, of course, on whether doing so (or whether having a policy of doing so) would be likely to have the best consequences, all things considered. And this is an open question. The point here is just that having an unvarying policy of supplying aid, whatever the consequences, does not enable one to avoid the danger of being used or manipulated by evil parties.
25. The same general point applies more generally to other ways in which wrongdoers may be able to exploit TMAs that are known to follow an invariable policy of providing aid, whatever the risk of negative effects. Governments that prefer to spend money on arms than on medicines may well be cheered at the prospect of such agencies, for example, for they would be able to spend their money freely on arms while the TMAs in question meet their people's medical needs.
26. That might depend, in part, on whether there is an approach—unlike both the consequentialist approach and the absolutist approach—that is not vulnerable to exploitation or manipulation of any form. It would be an interesting task to explore whether there such an approach exists.

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